



BORDERS IN GLOBALIZATION REVIEW

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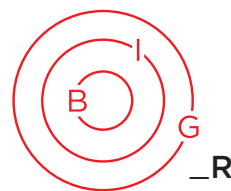
Academic and artistic
explorations of borders
in the 21st century

Cover: The Caravan
by Guillermo Arias
(portfolio enclosed)



BORDERS IN GLOBALIZATION REVIEW

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Borders in Globalization Review (*BIG_Review*) provides an open-access forum for academic and creative explorations of borders in the 21st century. Our interest is advancing high-quality original works in the social sciences, humanities, and fine arts, exploring various aspects of borders in an increasingly globalized world. The journal is committed to double-blind peer review, public access, policy relevance, and cultural significance.

BIG_Review welcomes submissions from all disciplines and backgrounds, including scholarly and artistic submissions (see [About the Journal](#) and [For Contributors](#), reproduced at the end of the issue).

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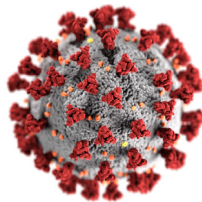
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BIG Announcements



CDC image

Call for Submissions

Borders in Globalization Review is calling for academic and artistic submissions for its upcoming fall/winter issue (and beyond). We are especially interested in explorations of the impact of **COVID-19 pandemic** on borders.

BIG_Review is a bi-annual, multi-disciplinary, open-access, and peer-reviewed journal, providing a forum for academic and artistic explorations of borders in the 21st century. In addition to **scholarly work** (academic articles, review essays, research notes, film reviews, and book reviews) we publish a range of **artistic work** (photography, painting, poetry, short stories, fiction reviews, and more). The journal is committed to quality research, public access, policy relevance, and cultural significance. We welcome submissions from all disciplines and backgrounds.

Scholarly submissions should engage with the research literature on borders, including, for example, borderlands, borderscapes, and bordering processes. We are interested in studies that go beyond the 'land image' by exploring borders as non-contiguous, aterritorial, globalized, mobile, electronic, biometric, functional, etc. We are equally interested in border studies from Indigenous perspectives, along with challenges posed to borders by climate change, colonialism, and subnational and transnational groups and identities. Research questions might focus on cross-border aspects of culture, flows, governance, history, security, and sustainability. We encourage innovative theoretical work as well as empirical and quantitative research. Articles should be between 7000 and 10,000 words in length. Book and film reviews should be between 500 and 1000 words, and short essays between 1000 and 4000 words.

Artistic submissions should pertain to borders broadly understood, for example, political, social, cultural, metaphoric, and personal borders. Borders can capture the popular imagination and inspire creative works.

Artwork can reflect and influence the cultures that shape borders. We promote portfolios and individual works, including original poems, photos, paintings, short stories, creative essays, film and literature, artistic commentaries, and other forms of art. Artists retain copyright of their work and benefit from increased exposure at no cost to them.

Our distribution model makes contributors' work widely and freely available to the general public in open-access format. This is possible by (a) utilizing far-reaching networks established in association with the multi-year research program, *Borders in Globalization*; (b) focusing on electronic rather than print copies (though paper editions may be ordered); and (c) shifting administrative costs from public users to academic institutions and authors' research funds (grants, etc.). The one-time \$250 Cdn fee applies to academic articles and essays that have been accepted for publication, and helps cover the costs of at least two double-blind expert peer reviews, production, and distribution. All other approved submissions—book reviews, film reviews, and all artistic and non-scholarly works—are published at no cost to contributors.

Academic submissions must be previously unpublished and not simultaneously under other publishers' consideration. Submissions are not guaranteed approval. *BIG_Review* reserves the right to reject submissions on any grounds.

The new issue prints this fall/winter. Submit soon!

For complete submission guidelines and more information about the journal, visit our [website](#) or see the end matter of this issue

Have a scholarly book idea or manuscript? See the new series, **BIG_Books**.



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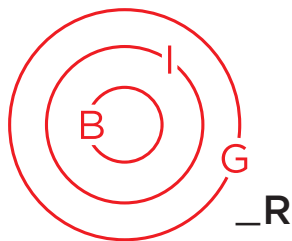
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Letter of Introduction



Dear Reader,

*We are pleased to share the sophomore issue of **Borders In Globalization Review**.*

Recognizing that these are difficult and exceptional times, we wish to extend our heartfelt gratitude to all colleagues, partners, and contributors — thank you for your patience and hard work.

As the present issue launches, we are building a special section for our upcoming third issue, due this fall/winter, on the borders of the novel coronavirus pandemic (COVID-19). There's still time to submit, on this and any other matters of global borders; we welcome submissions across fields and disciplines (see our latest call).

In this issue, you will find insight and inspiration from a remarkable collection of scholarly and artistic work. A common theme emerges: humankind struggling to survive and thrive in the face of borders that act as ruthless barriers. An autoethnography reveals the lived experience of a borderlander trapped between worlds. Our special section on the crisis of the European Schengen border zone reveals the challenges faced by asylum seekers and other migrants in need, as well as the challenges confronting the ideal of a 'Europe without borders'. A photographer's portfolio captures the desperation and humanity of women, men, and children travelling in the Central American 'caravan' seeking safety in the United States of America in 2018. Amateur artwork shines a light from within ICE immigration detention centres. Two poems insist on mobility and identity across international boundaries. Two essays explore the importance of performative art in overcoming the exclusionary quality of borders. And an essay published in Spanish explores the border theory of a French thinker (as we expand, we will publish more content in Spanish and French). The reader will also find film reviews, book reviews, and more.

BIG_Review bridges disciplines, publishing social sciences, humanities, and fine arts. Our contributors, along with our Editorial Board members, are based around the world. And the entire journal is free and available online in a variety of electronic formats as an open-access publication (**Creative Commons**), which means you can share it, print it, and read it on your computer, tablet, and phone. We are committed to public access, quality research, policy relevance, and cultural significance.

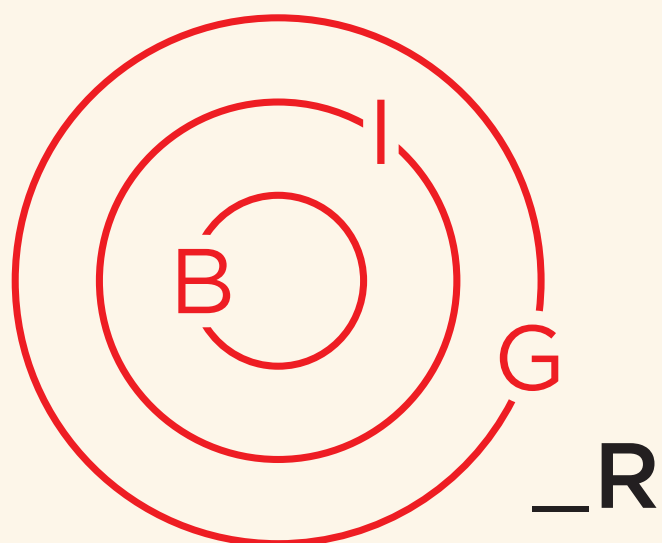
BIG_Review has been made possible by **Borders in Globalization** research program (BIG), a Partnership Grant supported by the Social Sciences and Humanities Research Council of Canada (SSHRC #895-2012-1022) and by the Erasmus+ programme of the European Union (see **Funding and Support**). *BIG_Review* results from teamwork and would not be possible without the dedicated support of Nicole Bates-Eamer, Michael Carpenter, Chris Chan, Noah Laurence, Tony Payan, Benjamin Perrier, Devraj Ray, Natasha Sardzoska, Kathy Staudt, Karen Yen, and all our board members who anonymously reviewed papers for this issue. We are especially grateful to all our contributors—academics and artists who have submitted works to *BIG_Review*. Thanks, are also due to Inba Kehoe and colleagues at the **University of Victoria Libraries** for hosting the journal online and providing technical support, and to the **Centre for Global Studies** for hosting our offices and providing invaluable support.

Please enjoy, and share widely!

Sincerely,

Emmanuel Brunet-Jailly, Chief Editor

With Michael J. Carpenter, Managing Editor



ARTICLES



ARTICLE

Palestine and the Habeas Viscus: An Autoethnography of Travel, Visa Violence, and Borders

Abdalhadi Alijla *

Borders have been a political tool to control, manipulate and affect the lives and movements of individual and groups. These borders can also work as barriers designed to discriminate against specific ethnic, religious, or linguistic groups and individuals for political reasons. In specific cases, borders can create an entire generation of exception, where the lives of a particular age group matter less than others. Palestinians in Gaza have been living in a state of exception, where their lives have been animalized and constrained both within the Gaza Strip and also outside the Gaza Strip, at border points of entry in many places. This paper is an autoethnography of the lives of Palestinians as a state of exception, visa violence, airports and borders. Borrowing Weheliye's concept of habeas viscus, the paper examines and describes experiences such as visa applications, rejections, travel, and encounters with border officials. The article starts with describing the state of exception of Gazans who were born and grew up under Israeli occupation. The paper then examines and analyzes the process and ritual of traveling as a quasi-citizen through various border points of entry. This article is an anthropological narrative of how a continuous state of exception turns individuals into homo sacer.

Departing Point

On 3rd December 2019, I woke up after a long night of travel from Sweden to Beirut, to the sudden news of my father's death in Gaza. Although I was just a few hundred kilometers away, I could not travel to pay my last respects to him, nor attend his funeral. Mourning my father abroad, away from my family and friends and unable to say farewell in person was one of the most heartbreaking moments of my life. The experience of not being able to say goodbye to a loved one is not unique for Palestinians of Gaza. Many of my fellow Palestinians have lost family members and friends and have been unable to see them one last time. I therefore knew that this might be my fate, long before my father died, which is not a humane way for anyone to live.

At the end of June 2018, I was about to enter the official opening of the WARM festival (an international arts and human rights festival) in Sarajevo. I received an unexpected call from my brother in Gaza, telling me that my father had been hospitalized with a suspected brain stroke. The sound of my brother's cries on the phone brought back memories of my father's stroke in 2006, just before I left the Gaza Strip, with no idea that I would not be able to return. Since then, I have obtained a new nationality, and a new passport, changing my stateless status as a Palestinian from Gaza to Swedish.

Upon hearing of my father's hospitalization in 2018, the first thought that came to my mind was that I

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would travel from Bosnia to Cairo, and then to Gaza via the Egyptian-controlled Rafah border crossing, which was open for authorized travelers at that time. However, I no longer had the Green ID card issued by the Israeli military that would allow me to enter Gaza. The psychological progression that I had to go through as I contemplated how I could possibly return to Gaza to see my father was enormous. At that moment and in many similar moments throughout my life, my vulnerability can best be described as an animalization by borders due to my imposed role as a border transgressor. For both the Egyptians and the Israelis, without the possession of my Green ID, I would be the transgressor. Contemporary border politics exposes border transgressors to death rather than directly using its power to kill (Agamben, 1998; Mbembe, 2003).

After the death of my father in 2019, many fellow Palestinians from Gaza who have had similar experiences shared with me how borders, walls, and travel restrictions have affected their lives. The Israeli siege and borders enforced on Gaza and the lives of its inhabitants have become an anthropological and sociological phenomenon that has not been thoroughly examined either scientifically, nor through literature.

This paper has three goals. The first is to stress the importance of autoethnographies for borders studies; second it shows how Israel, as a controlling power created the notion of "Gazans", where it treated Gazans as bare life, and also as *habeas viscus* using technological assemblages to control their lives; and third to provide a new perspective on how borders affect stateless people's lives in conflict conditions.

Approach

The shortage of theoretical literature and previous studies on borders from an anthropological perspective is due to the restrictions on access imposed primarily by Israel, resulting in the inability of foreign researchers to conduct research in Gaza. For that reason, most anthropological and sociological studies on Gaza have been neglected in favor of desk research and field visits to the West Bank (Roy, 2016:9). For the last thirty years, Israel has imposed increasingly strict restrictions on travel in and out of the Gaza Strip, which has negatively affected research collaboration and field visits (HRW, 2017). According to a Palestinian researcher, this is compounded by the difficulties researchers face in gathering personal stories from Palestinians in the Gaza Strip due to high levels of trauma they have experienced (Azez Al Masri, interview with author, Gaza, November 2019).

This paper discusses some aspects of my own personal experience in an attempt to reflect on the

experience of the Palestinians from the Gaza Strip. My story by no means represents the collective Palestinian experience. Rather, it is a self-narrative that places the individual within a social context (Gregory & Reed-Danahay, 2000). Individuals who have left or fled the Gaza Strip might however identify with several aspects of my ethnographic experiences. This article offers a new perspective on the effects of borders on humans in the context of Palestine in general and Gaza in particular. Previously, Ramzy Baroud and Yousef Aljammal have used storytelling in their journalistic and scholarly work, discussing Palestinian collective experiences (Baroud, 2018; Aljamal, 2014). In this regard, autoethnographies ask "readers to feel the truth of their stories and to become coparticipants, engaging in story telling emotionally, aesthetically, and intellectually" (Ellis, Carolyn & Bochner, 2000).

The originality of this article is its ability to capture first-hand experience of borders, with the author placing himself as the subject matter and case study of a broader community of Palestinians of Gaza. Secondly, this article is distinct for utilizing autoethnography to discuss borders, violence, and siege as anthropological phenomena in Palestine. This article focuses on the experience and narratives of the Gaza Strip, and is not representative of all the Palestinians who live in the West Bank, Jerusalem, or the diaspora (including refugees, post-1948, when the state of Israel was established). Methodologically, I rely on my own experience as well as archival data. In cases where no data are available, I have returned to some people who are experienced or witnessed the issue I am searching.

The article frames the Palestinians of the Gaza Strip within the *viscus/flesh* lenses, recognizing the severe violence the people are subject to (instrumentally and psychologically). Although the article makes use of *homo sacer* theory as a description of the Palestinians of Gaza, especially the 'state of exception,' it articulates that the Palestinians of Gaza are caught between *homo sacer* and *habeas viscus*. The use of *habeas viscus* reflects the racialized use of knowledge and technology to affect and manipulate human life and environment, particularly with respect to Gazans (Palestinian who live in Gaza) who are borne to violence and have long been under oppression, siege, military attacks and strict borders and restrictions on movement (Weheliye, 2014:11-12). As *homo sacer*, without sovereignty over their movement, borders, travel, death and life, amid severe violence, they continue to live in a continuous state of exception. Simultaneously, they live as experiment for the use of technology and knowledge made by Israel (Dana, 2020). Such technologies maintain the state of exception and the production of Palestinians as a *homo sacer*.

I will go back and forth between travel events, always coming back to the primary theme of this paper, namely that of borders. Each section focusses on a specific theme, including, respectively, Gaza's borders and the creation of border zones, the state of exception and immigration from the Gaza Strip, visa violence, rituals of travel, statelessness, and finally *habeas viscus*. This paper is not in chronological order of events; rather it allows the reader to grasp the essential thematic difficulties Palestinians face with respect to real and virtual borders that affect the lives and psychology of Palestinians.

This autoethnography represents the violence of borders that Gazans face, especially the youth of the Gaza Strip. It provides an alternative story of the sufferings of Palestinians from borders. Based on my own experience, travels, and refuge, as an individual with a Palestinian green-colored ID, accompanied with a Palestinian travel document, and later as a European citizen, I offer a narrative of the nature of borders, politics, suffering, self-exile, and the ritual of border controls. The stories of borders, occupation, and violence in Palestine deserve serious attention by scholars and researchers. This article contributes to the conversation on Palestinian struggle, sharing a sense of the trauma associated with crossing borders under siege and occupation.

Gaza Borders: From Rhodes to Oslo

The Gaza Strip has been the focus of most academic and non-academic writings on Palestine, particularly after the 1993 Oslo Accord (Nofal, 1996), the second Intifada that began in 2000 (Collins, 2010), the Hamas elections in 2006 (Klein, 2007), Gaza's blockade, the Hamas-Fatah division (Alijla, Masri, & ElMasri, 2019; Rose, 2008) and three large-scale Israeli military operations in Gaza in 2008-2009, 2012, and 2014 (Finkelstein, 2018; Manduca, Chalmers, Summerfield, Gilbert, & Ang, 2014). While it is beyond the scope of this article to provide a detailed history of the Gaza Strip and how its current borders and shape came into being, this section offers a brief sketch.

Prior to the creation of the State of Israel in 1948, Gaza and its district had 53 villages, and three main cities (Majdal, Gaza, and Khan Younes) with a size of 1111.5 sq km. The Gaza district was situated with the eastern coast of the Mediterranean to the west of Gaza, the Sinai desert to the south, the Ramla district to the north, and the Beer Sheba and Hebron districts to the east (Az'ar, 1987). It was under British colonial rule since the defeat of the Ottoman Empire in World War I. After the British withdrawal and the establishment of Israel in 1948, the Gaza district reduced in size significantly, pursuant to the Rhodes Armistice agreement of 1949, which ended

hostilities between Israel and its Arab neighbours, Egypt, Jordan, Iraq, Lebanon and Syria (Waage, 2011). In the Rhodes agreement, the Green Line was established, separating Israeli controlled areas from the Egyptian-controlled Gaza Strip and the Jordanian-controlled West Bank.

After the Rhodes agreement, the Gaza district reduced in size to 365 sq km, just 20% of its original size (Ghazi, 2011). In 1948, the population of the Gaza Strip increased from 90,000 to 249,603, including refugees who were forced to leave their homes from other areas in Palestine, with most of these refugees settling in eight refugee camps (Az'ar, 1987: 16). The Arab League mandated the Egyptian government to administer the Gaza Strip in 1949, as there was no Palestinian political entity that could represent the Palestinians (Abu Amro, 1987). The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was established in 1949, serving the refugees in the Gaza Strip as well as those in other parts of the neighboring countries, providing UNRWA cards as identification documents, while the Egyptians provided travel documents for Palestinians, including the Palestinian refugees (Bocco, 2009).

In June 1967, amidst heightened tensions, Israel attacked Egypt and Syria, taking over the Gaza Strip and the Sinai desert, as well as the Golan Heights from Syria and the West Bank (including East Jerusalem) from Jordan. As soon as Israel took over the Gaza Strip, it established military rule over the Palestinian Occupied Territories (Roberts, 1990). From 1967 until 1987 Israel allowed Palestinians in Gaza and the West Bank to travel to Israel without permission as cheap labor forces. However, the restrictions intensified in the following years, along with hostilities, isolating the occupied territories, especially the Gaza Strip, gradually in the early 1990s, and more completely in 2000 (Loewenstein, 2006).

From 1967 until 1994, the Palestinians of Gaza were allowed to travel abroad through the Rafah crossing into Egypt for education and medical purposes, only after obtaining military permission. The whole territories and bordering politics were redesigned to ensure consistent and strong control mechanisms over the mobility of the Palestinians (Latte Abdallah, 2019). In some cases, Israel would issue laissez-passers for Palestinians from Gaza who were unable to obtain travel documents from the Egyptian authorities (Palestinian CSO activist, interview with author, in Gaza, November 2019).

They usually had to apply to get one from the *al-Idara al-Madaniya* (civil administration of the Israeli army). In most cases, Gazans who were planning to study abroad would ask for one since they were unable to obtain Egyptian or Jordanian refugee travel

documents. The Israeli laissez-passer allowed the Palestinians to travel. According to Sami Abu Salem, a journalist from Gaza, there were two types. One allowed for travel and return within a week, month, or year (based on the application), and if one did not return within the stipulated period, they would not allow them to enter the Gaza Strip. This kind of laissez-passer was hard to obtain, and only given after meeting with the Israeli Shabak (internal security). The second laissez-passer was mostly given to students, and they could not return sooner than nine months or a year. In many cases, laissez-passers were simply denied and hundreds of students lost scholarships in the former Soviet Union and Eastern Europe. Gazans were allowed to travel through Egypt or Jordan (after obtaining Israeli military permission) if they intended to travel abroad, and in some cases such as travel to Europe and the USA, through Ben Gurion Airport. For the most part, Palestinians of Gaza were not allowed to travel by air from Israel, and to this day are forced to travel through Egypt as the only way out of the Gaza Strip to the world.

After the Oslo Accords, the Palestinian Authority (PA) was established as a semi-autonomous governing body in the Gaza Strip and parts of the West Bank. According to the Oslo Accords, the PA issued travel documents to the Palestinians who were born in the occupied territories, although Palestinian IDs are still issued by the Israeli military. The PA executes a secretarial role, but the final decision is made by the Israeli military. After 1967 and the occupation of the Gaza Strip, the West Bank and East Jerusalem, Israel issued colored ID cards. Gazans were issued red, and West Bankers were issued orange, while Palestinians in East Jerusalem had azure blue ID cards and the Palestinians in Israel had light blue IDs (Parizot, 2017; Tawil-Souri, 2012). In 1994, when the PA came into being, they changed the color of IDs to green to identify anyone who was 18 years old in 1994 and any renewed ID cards. My parents, older brother, and three of my sisters had red IDs while I, and the rest of my siblings, had green IDs. The ID proliferation has a psychological effect. It cuts Palestinians into different populations: generationally and geographically. It has pushed me and many of my fellow Palestinians to adopt categories and labels that contribute to our own othering from the outside world and from each other.

Palestinians of Gaza are only allowed to travel through Egypt and Palestinians of the West Bank through Jordan. Until 2005, the Israeli military controlled the Rafah crossing, blacklisting, arresting and banning many Palestinians from returning to Gaza once they left. Even today, the registry of the Palestinians who can enter the Gaza Strip is managed by the Israeli military, working with Egyptian security services (Palestinian civil worker, interview with author, Gaza, November 2019). Egyptian border police would not

let me into the Gaza Strip if I sought to return, even though I have an expired Palestinian passport and a copy of my Palestinian birth certificate. Although Israel has no control over the Rafah crossing, the inherited mechanism of control which has lasted since 1967 continues to affect the Palestinians of the Gaza Strip. Between 2012 and June 2013, I could have entered the Gaza Strip through the tunnels across the borders, but at that time, I did not have Swedish citizenship, and it would be a losing game that would return me back to block zero, as I was starting my doctoral studies; I would be an "illegal" person in Gaza.

Since June 2006, Israel imposed a blockade on the Gaza Strip, forcing the EU police monitoring mission to not access to the Rafah crossing which closed. Since then, it was opened periodically from time to time. For instance, in 2007, it was completely closed for 199 days where as of January 2008, the last opening time was in June 2007 (UN, 2008). As Hamas took over the Gaza Strip in 2007, Egypt, Israel, EU and the USA imposed total boycott of Hamas de-facto government, which led to the ongoing closure of Rafah crossing, tightening the siege on the inhabitants of Gaza. Travel arrangements in and out of Gaza since 2007 are not clear and depend on both the changing relationships between Hamas in Gaza and the Egyptian intelligence services, and the security situation in Sinai Peninsula in Egypt. Egyptian military convoys would accompany travelers who were authorized to come and go from the Gaza Strip. The names of Gazans traveling outside the Gaza strip would arrive on the Egyptian sides after being sent by the Hamas government or through connections, usually with bribes paid by the travelers (Al-sharq, 2016; Aljazeera, 2019).

Palestinians continue to be stateless. Many have travel documents from Egypt but are not Egyptian, therefore the Egyptian state is not responsible for protecting or securing the safety of their travel. Palestinians of the West Bank with Jordanian travel documents are also not Jordanian. More importantly, the Palestinian travel document issued by the Palestinian Authority retains the statelessness of Palestinians, as it encourages countries to keep treating Palestinians as "Palestinians" without a political and legal identity. Most recently, the USA closed its consulate for the PA in East Jerusalem and opened a department for Palestinians Affairs within the US Embassy in Israel.

Until today, many Palestinians struggle with bureaucratic issues in Europe and North America as Palestine and the occupied territories are not found in systems, such as banks, immigration offices or communes. These policies are strategically developed for political reasons, but in reality, such policies dehumanize Palestinians and

sustain their statelessness despite having a travel document.

Despite the fact that nation-states and border control have become a normality in most people's lives, for Gazans it is much more complex than merely crossing a border. Normally, the outline of states on a globe resembles "neat flat surfaces ... clearly separated from each other ... and there is little if any ambiguity or overlap" (Khosravi, 2007). Borders are however not that simple. They have become a separation mechanism that excludes and includes, not only based on citizenship, but also place of birth. According to Rumford, "borders shape our perception of the world ... border thinking is a major component of our consciousness of the world" (Rumford, 2006). Borders and bordering often shape the future, lives, deaths, mourning, love, studies, relations and other aspects of people's lives. This is especially true for the people of Gaza.

When I received the news about my father's sickness, my first instinctive thought was to go back to Gaza, but then, my consciousness of borders that would impede my return home halted me from the

continuation of that thought. Borders are not only an obstacle, but they are also an ongoing mechanism that changes our perceptions and experiences of the world. They are "based on a capitalist-oriented and racial-discriminating way of thinking [and] regulate movements of people. However, borders are also the space of defiance and resistance" (Khosravi, 2007).

State of Exception: Immigration, Society and Violence

A state of exception is reflected in the extreme violence that my people have been subjected to from multiple actors. The state of exception is understood as "essentially extrajudicial," something prior to the law or beyond the law (Humphreys, 2006). It also reflects a maintenance of the vocabulary of war to justify actions outside the law. I grew up surrounded by a violent environment on both sides: of the society and the occupation. There was a hierarchy of authoritarian violence, beginning with the Israeli occupation; crime and trauma were the norm. As Sara Roy puts it, "children in the Gaza Strip are increasingly incapable of conceptualizing authority in traditional terms since parents and teachers,

unable to protect the youth from constant abuse and threat, have ceased to exist as authority figures. Authority is now the enemy and is inherently evil. Law and order do not exist in Gaza, in concept or in practice, and therefore children have no boundaries and no markers for distinguishing good behavior from bad. Children are fearful in Gaza, but they are also feared" (Roy, 1993). The authority over my life, death, and behavior was essentially, a control of a bare life, which is expressed in the state of exceptionalism.

I was born and raised in Gaza City and lived through both the First and the Second Intifadas. As the ninth of eleven siblings, I experienced what it means to come from a big nuclear family as well as being part of an extended family. My family live in the neighborhood of Shejaia, a tribal rural neighborhood of Gaza with a population of around 200,000 (2016). In Gaza, families are part of a bigger network, known as a "*hamula*" in Arabic. The *hamula*, is a patri-lineal group where its members

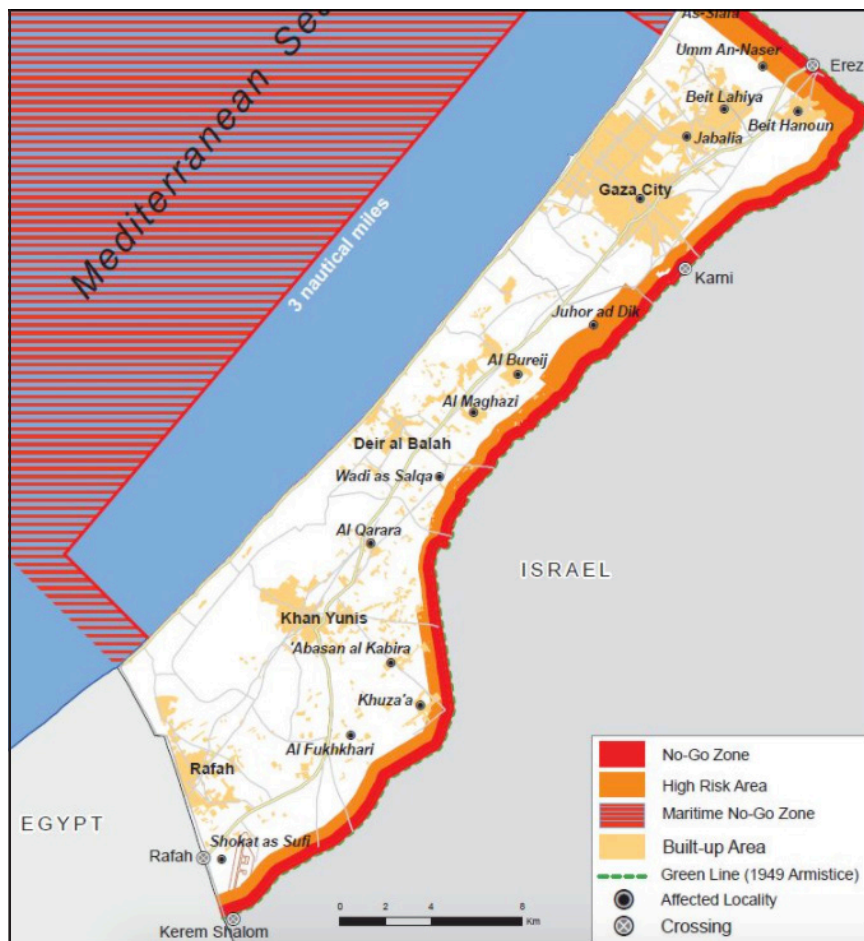


Figure 1. Gaza Strip. Map source: UN OCHA (2010).

are related by blood to one great grandfather, and all the members share the same surname. However, in the early 1990s, after the arrival of the Palestinian Authority, many families started to form coalitions, referring to themselves as *hamulas*. They relate themselves to each other socially and tribally by fictive relatedness to obtain advantages of protection, rights of solidarity, and shared responsibility against other *hamulas* and the state's institutions (Rosenfeld, 1974).

Although I belong to a big *hamula*, I grew up isolated from the majority of its members. From 1967 to 2000, the majority of men in Gaza would work in Israel in the agricultural and construction sectors. In my *hamula* especially, most men worked in Israel. My two brothers worked in Israel in the summer, and if one had not graduated with a college degree in Engineering, he would have continued working in the construction fields of Israel. My second eldest brother was sixteen years old when he started working in the agriculture fields. I used to wait for him every day to bring us corn. The rest of my *hamula* also worked in Israel. My brother-in-law, my two uncles, and almost every house in the family and the neighborhood had at least one worker in Israel. It was not exceptional for me, as a child, to know that Saturday was the day of families. Family visits used to be on Saturdays. In such an environment, emigration was not an option. Although opportunities may arise, socially binding structures discouraged youth and men to emigrate outside Gaza, setting aside the complexity of obtaining an Israeli laissez.

In 1967 my paternal uncle left to study in Egypt, then in the UAE, where he was in forced exile until 1993. My second paternal followed my first uncle to the UAE and remained there until he died in 1999. We were not able to bring his body to bury him in Palestine. The last time I saw him was when I was a child. My maternal uncle was in Egypt and we could not meet until I was sixteen. All of them left Gaza for political reasons after 1967. My father's cousins left for Saudi Arabia and the UAE for better financial prospects and conditions. Kinship was central to the migration in the family. There is a consensus among migration scholars that social networks, kinship, and family ties are crucial to the migration system (Boyd, 1989; Fawcett, 1989; Gurak & Caces, 1992). It is about having a

community in "*al-gorba*", which means foreignness or alienation, to facilitate shared responsibility and solidarity similar to the experience in Gaza. Social networks of multiple generations would provide financial support, as well as provide wisdom and guidance to individuals in their journeys in the diaspora. In the majority of cases, newly arrived immigrants in their host communities would not need to look for accommodation, and jobs would already be secured before their arrival. Such a system minimizes the risks and costs of immigration (Kandel & Massey, 2002).

Despite this, it was very rare for an individual to leave our neighborhood in Gaza to study abroad, especially for those born in the 1960s, 1970s, and 1980s. As a child, I knew only three people from the neighborhood who succeeded in leaving to study in Russia and Romania. I remember my father installed a landline for our house, which was the only telephone in the neighborhood. Therefore, once a week, each of the students abroad would call our home, and I or one of my siblings would run to tell their relatives to come and receive the call. It was a kind of social networking strategy for my mother and the relatives of the students, who spent some time socializing at my home after each call.

In immigration studies, there are several types of immigration that range from voluntary to forced (Chimni, 2009). Forced migration means that individuals are left without any option but to leave their homes, neighborhoods, and countries because of socio-political conditions. According to Richmond (1994), migration can be categorized into two sets: a reactive (forced) and proactive (voluntary). However, Turton (2003) argues that even in forced



Figure 2. Growing up in Gaza. Source: personal records.

migration, people have more options. I argue that Turton may have missed the case of the Gaza Strip or cases where economic opportunities and political oppression mount against the young generations that leave them without options. He opposes many theories which argue that forced migrants have limited options. In the case of the Gaza Strip, the state of exceptionalism rises from the complexity of the situation. Firstly, Gaza did not have a history of migrants or refugees moving en-mass to form a community that can encourage others to join, except most recently with the new waves of forced migration and refugeehood from Gaza after 2007 due to the Hamas takeover of Gaza and the three Israeli military operations in Gaza, which led to the severe deterioration of the socio-economic situation in the Gaza Strip (RefugeesPS, 2017). Secondly, the financial burdens of travel were so high that the idea was abandoned, and alternatively, working and building a family was the other option, following the social structure of the *hamula*. The third and most important reason is the Israeli authorities made it complex for the youth in Gaza to leave, due to fears that they would join the Palestine Liberation Organization. Therefore, obtaining an Israeli laissez-passer was time consuming, at times taking several months to a year to be obtained. Although Israel had plans after 1967 to force the Palestinian Arabs to leave Palestine, the strategy did not begin to work as expected in Gaza until 2007 when Hamas took over the Gaza Strip (Shafer Raviv, 2018). As a group of my colleagues in Belgium and Sweden who left Gaza between 2007 and 2018 said, We are jumping from a sinking ship. We had no other options.

The forced migration of Gazans has been rising since 2007 for several reasons, mainly, the deteriorating socio-economic situation, Israeli military operations, high unemployment rate, and above all, parents who are looking for new future for themselves and their children. Although there are now many Gazans who leave to study abroad, their defined period of study and limited immigration for study has consequences once they finish their studies. The future prospects for those in the Gaza Strip after completing their higher education is limited; therefore these young people look for new opportunities in Europe or North America. Another reason behind the forced migration of Gazans is the limited freedom of speech, torture and persecution of young activists who are a strong voice against Hamas' role in the Gaza Strip (Alijla, 2019b). The internal violence exercised by Hamas de facto government in Gaza, as well as the external violence exerted by Israel through the siege and military attacks, created a motive for migration, reflecting a state of exceptionalism where national practices and external wills lead to the forceful exile of Gazan youth. Forced migration, or *muba'ad* (exiled) was a phenomenon used to describe persons who are forced by Israel to leave

their hometowns for other countries or regions with borders that ensure a physical separation between the person and his community. Although *muba'ad* describes a human and political condition, it was not used to describe persons who were forced to leave the Gaza Strip by Hamas. In these instances, forced migration is softened linguistically and conceptually by not using *muba'ad* and instead using *hajer/muhajer* (emigrated) to avoid labeling or equalizing Hamas with the Israeli occupation and its military.

The first time I was able to leave Gaza was in the early 1990s, when I was taken to visit my mother in Tel Aviv's major hospital after she had an operation. As a child, I saw first-hand the check points and the Israeli soldiers asking for ID cards. My father had to take my birth certificate with him as my ID card. In the hospital, I was required to go through security gates in the form of pedestrian portals. As we lived near the Israel-Gaza fence and my sister lived just a few hundred meters from it, I always walked to her house, as a teenager looking towards the street lights on the other side of the fence, an area that my friends and family called "the settlements." If, as a child, I walked for 20 minutes toward the east, I would be walking under those lights, but that was impossible because there were soldiers and a fence. I still remember that I spent many times as a child just looking at the lights, a sense that I loved for no obvious reason. As Gazans, we live in the state of exceptionalism. When Israel upholds the law and suspends the law against us, it declares a state of exceptionalism targeting specific populations who were born in Gaza. Every child in Gaza, as I was, is *homo sacer*.

Homo sacer is Agamben's term that describes 'when the rights of the man are no longer the rights of the citizens, then he is truly sacred, in the sense that this term had in archaic Roman law: denied to die' (Agamben, 1998). We were completely de-politicized bodies, who were left vulnerable not only to the violence of occupation, but through daily practices, such as regulations and political arrangements. We were also left to the violence of ordinary citizens, the Palestinian adults, without being able to protect or defend ourselves. In short, children in Gaza are left to navigate alone a suspended life under oppressive forces and authoritarian, unescapable control. As children and later as adults who were born and live in Gaza we represented permanent bare life, excluded from rights and sovereignty.

Visa Violence

The lack of a visa is not only a restrictive control mechanism on freedom of movement, but also a mechanism of humiliating people. The neurosurgeon, the professor, many students, professionals,

and others do not pose a threat to Egypt. They were coming from Germany, USA, Italy, Hungary and many other developed countries. However, in the eyes of a security agency, we were all from Gaza, and therefore we should be treated as security threats.

In 2006, I was invited to the International Telecommunication Union's global meeting in Hong Kong. I applied for a Hong Kong special visa at the Chinese Embassy in Tel Aviv by sending my passport via DHL courier service. Although I sent the application on time, I only received the passport with the visa on the same day of my flight, which was departing from Cairo Airport. It was impossible to travel to Cairo. Sometimes, delaying a visa-issuance and complicating the bureaucratic mechanism is a subtle mechanism to exert control and power over the applicant of a visa.

Israel uses technology to limit the access of Palestinians of Gaza to their territories. Borders can have a mental impact as well as political significance (Bigo, Bocco, & Piermay, 2009). The border system creates a politicized human being, but at the same time, it produces a by-product: a politically unidentified 'leftover,' a 'no-longer-human being' (Schütz, 2000). For many Arab states such as Egypt, Jordan, and the Gulf countries, Gazans were the leftover. Gazans' public and private events, political, and biological life, all have become indistinguishable, as they are seen as belonging to a defined spatial area (Agamben, 2000).

Between 2005 and early 2007, I submitted applications to the French Consulate three times. Two were to work at an organization that had already sent me all the necessary documents as part of a European Volunteering Services (EVS). The second was as a participant in a youth peace conference. In both of these cases, I was denied a visa without any explanation. After these incidents, I felt humiliated and rejected. At that time, I was told by my friends that the embassy consular thought I may have had plans to stay in Europe. That was not my intention. I decided to take another direction; I wanted to pursue my studies.

Malaysia did not require a visa for the new Palestinian Passport that was issued according to Oslo agreement. In fact, several of my friends from Gaza were studying at the time in Malaysia. My first idea was to go to Malaysia to get my MA degree then come back to work in Gaza. I sent my documents to one of my friends in Kuala Lumpur with a Western Union transfer of \$50 USD for the registration. Two months later, I received admission by email, and I was ready to travel to continue my MS in Information Technology, continuing on the path that I started as a software engineer. However, this was not my choice; I wanted to study social sciences,

which I always loved, but the Malaysian education system did not allow for that. It is clear that visas can be violent to the extent that they can change lives and career trajectories. However, the visa only arrived after I had already started the process of a new visa application to Italy.

A passport is not only a piece of paper, as my father used to tell me, but is one of the most (if not the most) important pieces of paper for Gazans. Palestinians of Gaza see their exclusion amid the humanitarian, political, and social crises as a sinking ship, and for that matter, salvation of the individual is the one and only way out. Passports are the first step on that path because passports play a major role in deciding our spatial limits and surplus of mobilities. Without passports, individuals cannot cross borders. Therefore, passports are the tool that governments use to govern the movement of its population (Torpey, 1999). Yet, passports also represent the strength and vulnerabilities of nations and states. This is why people are classified as safe travelers, desirable, or non-desirable, which is also linked to foreign policy (Salter, 2004). When Gazans are treated through the security lenses of Egypt because of their position under Hamas as a de-facto ruler of Gaza, it affects the whole population and not only Hamas or those associated with it.

After receiving my Italian visa, which I can safely say was the miracle of my life, I began my efforts to get a Jordanian "Persona Grata," which is a visa for Palestinians from Gaza. As distinct from the Egyptian side, the Jordanians informed applicants of the visa decision within one month of application. In 2005, I applied once and was rejected without being given reasons for the rejection. However, in 2007 with an Italian visa already in hand, I was granted the Jordanian Persona Grata. For the first time in my life, I had two visas on my passport. It was rare for a Palestinian of my age to have one visa (two visas were a dream). To my dismay, the Rafah crossing was closed. So, the two visas were of no use and once again I could not travel. My travel was then rearranged through international organizations and the Italian embassy, signifying me as a special case and therefore again as a state of exception and bare life (Alijla, 2019a). In my call with the UNESCO director in Jerusalem, I had explained my situation and how such obstacles may turn ambitious Palestinians into fighters who look for death as the only escape from life without hope. The director forwarded my case to the Italian ambassador himself and the exceptional request for urgent travel was granted.

Instrumental Violence and Borders

Visa violence is used to ensure that Gazans are kept as leftover. Its major political significance is to ensure

discontinuity with the rest of historical Palestine, including the West Bank. Significantly, the use of term *Ghazzawi* was intensified and increased since 1990, and policies designed towards Gaza were different than those in the West Bank. The territorial re-configurations of Gaza and Gazans aims to deepen the space and time asymmetry within the whole population of historic Palestine (Handel, 2009; Parizot, 2017; Peteet, 2008). In that regard, Handel describe these as mechanisms of control to keep people "inclusive-exclusive" through a matrix of control (Handel, 2009).

It was not until the early 1990s, when I was eight years old, when I crossed a border for the first time. It was the visit to my mother who was hospitalized after a surgery at Assuta hospital in Israel. At the time, the Erez checkpoint between Israel and the Gaza Strip was already in place, with soldiers and barriers, slowing and scrutinizing passage. After we crossed the Green Line, signs of the occupation disappeared; clean streets, highways, modern cars, and taller, greener trees. The second time I crossed a border was at the age of 16 when my father took me to Jerusalem for Friday prayer. Again, my father used my Birth Certificate as an ID, since I was under 18. This time, the crossings had changed, and my visa was my birth certificate. Security checks were more intense and queues were longer. Until 2000, it was a straightforward process to get military permission to travel to Jerusalem for prayer on Fridays if you had an electronic ID card issued by the Civil Administration of the Israeli military. We waited for twenty minutes before we were in front of a female soldier who addressed me in broken Arabic with the infamous question: "*shu ismak?*" meaning 'what is your name?'. This question is routine, despite the soldier having the ID in hand. It is perceived as a way to show power and authority over Palestinians passing through borders or checkpoints. The ritual of the Erez crossing was known to nearly everyone in Gaza; the rush hours, the soldiers who worked there, and which lines were faster than others were common conversation points. The crossing was a frustrating experience, where over 150,000 individuals from Gaza had to cross in just few hours to go to work inside Israel.

After the Second Intifada began in 2000, however, the borders were tightened, and siege-like conditions were imposed on the Palestinians of Gaza. As a youth activist and member of a Scout group in Gaza, I was nominated to represent Palestinian youth in the Arab Youth Camp in Alexandria, Egypt in the summer of 2001. Fortunately, the Palestinian Ministry of Youth and Sport arranged a bus for us directly from Gaza to the Rafah crossing. At the crossing, we then had to get off of the bus and find a taxi, paying additional fees to be taken for a ride only 10 meters to where the Israeli soldiers were



Figure 3. Childhood Scout. Source: personal records.

stationed. These fees were paid to the Israeli military. The sufferings of Gazans worked as a financial asset and money-making machine for the oppressor. The Israeli soldiers checked us, instructing us to take another bus to the main departure hall. At the main gate, there was an Israeli soldier in uniform, and armed Israeli civilian personnel. We handed over our PA travel document to a Palestinian civil policeman. The Palestinian police handed the collected travel documents to the Israeli police behind a reflective glass behind him. They stamped our passports, allowing us to leave to the other side, to take yet another bus. When the bus was filled with more than 80 passengers in a space that fits only fifty, we were driven to the Egyptian side. There, we waited for almost three hours until one officer told us that we needed a security visa. Despite the fact that we were invited by the Egyptian Ministry of Youth and our names were handed to them prior to our arrival, as Gazans, we needed security permission from the Egyptian intelligence. We waited for 16 hours in a filthy, inhumane location without any facilities. When they stamped our passports, the Egyptian officer told us, "you are welcome to your home." I was 17 years old then and this was my first encounter with a visa related situation of this sort. The officer's remark was cynical to say the least. Looks of dissatisfaction and disgust replaced the joyful cheers we were expected to deliver. What a welcoming gesture to receive at what the officer proudly called "our home" meaning Egypt, as a good gesture after the mistreating behavior and waiting 17 hours.

Between 2001 and 2004, I applied several times for visas and *tansik* to enter Egypt. *Tansik*, literally meaning coordination, has a different procedure which only includes adding the name of the traveler on the travelers' list on the Egyptian side, and does not go through the Egyptian embassy in Gaza or the normal visa procedures. In other words, *tansik* was securitization of the process of traveling as it occurred only between security agencies. The coordination usually occurs between the Egyptian intelligence and the Palestinian Intelligence, or the Preventive Security, which each have quotas for the number of *tansik* they can arrange. However, adults above the age of 40 were allowed to cross without visas. Such regulations that discriminate against gender, age, and class (privileging VIP card holders and businessmen) are embedded within the regulation of Palestinian mobilities by the Israelis, Egyptians, and Jordanians. The social profiling of travelers starts long before they reach the border (D. Wilson & Weber, 2008). As Rumford (2006) argues, bordering can be selective and targeted (Rumford, 2006). Whenever I asked about why there was a delay, officials usually answered with, "you need a good reason to travel through Egypt." The *tansik* reflects a state of exception where normal travel laws and regulations are suspended and two security agencies and militaries are responsible to manage border zones and individuals seeking to cross. If one agency denies the entry of one passenger, the other does not interfere, and the passenger then has to ask another agency to handle the matter in order to remove his name from the blacklist.

In 2006, I was selected as one of the dozen Youth Peace Ambassadors by the Anna Linda Foundation in Alexandria. I was required to travel to Egypt. I applied in the Egyptian embassy in Gaza, but never heard back. A visa does not work only as a means to facilitate and govern movement, but also as a means to restrict movement and violate rights in many cases. In my case, there was no reason that would prohibit me from getting a visa to enter Egypt, but my application had never been examined and I assume that is why I never received an answer. I then was told I need *tansik* by a security apparatus rather than applying for a normal Egyptian visa. Almost every application for men under age of 30 is dumped before looking at the application.

Also, in 2006, I was selected to participate in the first Euro-Med Youth Parliament, comprised of one preparatory course in Egypt and another in Germany. I applied for a visa to Egypt, but I never got an answer from them and thus had to abandon the idea. However, I did receive the German visa months prior to the dates of the event in Berlin. It was simplified for me because the invitation was from the German Federal Ministry of Foreign Affairs. They booked my flight from Cairo Airport to Berlin,

knowing that I could not travel from Ben Gurion Airport in Tel Aviv, which is just a two-and-a-half-hour drive from my home in Gaza. Palestinians are not allowed to travel or arrive through Israel under the pretext of security threats. The struggle to obtain an Egyptian visa for me was mounting. I did not get the visa, but I was advised that I would be granted entry if I took all the papers and invitations with me to the border.

At the Rafah crossing, I helped an old lady and her daughter carry their bags; I did not know them. My flight was at three in the morning, and it was almost four when the lady called her brother, who happened to be a police officer at the crossing. He came and asked for the woman and her daughter. Luckily, the woman and her daughter told him that I am was them too. He stamped all of our passports and put us on a VIP mini bus to the Egyptian side. The officer told me that if I had no visa and wanted to make sure I had no further trouble, I should just leave \$50 USD inside my passport when I hand it to the officer. I did as he advised. In less than 30 minutes, the Egyptian officer called my name, and handed me my passport. Border crossings are zones of culture production, spaces of meaning making and meaning breaking (Donnan & Thomas, 1999). Border crossings are conflict zones, where coded systems are in full effect. The Gaza-Egypt border and crossing operate according to their own laws and regulations, subject to Egyptian and regional power considerations. The case of Rafah's crossing has been changing over the last decades. Egypt assesses the situation strategically as they securitize the crossing from their side. They mostly keep the border closed, in line with Israeli interests, and also to maintain disengagement with Gaza. The Egyptian government's main aim is to avoid the burden of having Gaza under its administration (ad-hoc or even reliance) (Feldman, 2015).

A week later, after I finished my program, I flew back to Egypt. In the line, as soon as the border officer saw my passport, he yelled, "*Ghazzawi!* Stay aside. Sit down there." After one hour, an intelligence officer took me to a side office to interrogate me. They did not let me into Egypt. I had to be deported to Gaza. Perhaps Egypt is the only country on earth that deports people collectively based on their geographical area of living, irrespective of religion, ethnicity, or political orientation. "*Tarheel*," or deportation, means that one cannot enter Egypt, and that they will be detained in the airport and deported to the Rafah crossing when it is open. Palestinians of Gaza are subject to the constant risk and fear of deportations, more so than the act of deportation itself. Deportability therefore defines the Gazan state of mind (De Genova, 2002). Palestinians of Gaza experience multiple borders in the region (Egypt, Jordan, and Israel) multiplying socio-spatial

division. It is the governmentality of territorial limits and their access, and all the elements of borders that surround them (Szary & Giraut, 2015).

The conditions in the Cairo Airport detention center where I was confined in was inhuman. I slept there for one night. The following day, the bus was filled with Palestinians from Gaza and we headed towards *al-Arish* airport, where we were detained for four nights. Sitting next to me was a chemistry professor who was coming from the USA, and a neurosurgeon who was coming from Germany to visit his family. We slept on carton boxes, shared fish and chip meals, paying double the price to the officers as a bribe to let us eat and drink. They allowed us only once to leave the *al-Arish* military airport building for a walk outside. The fourth day, they took us in a prisoner convoy to the Rafah crossing. That was the first, and last time I hope, that I looked from the window of a prisoner convoy.

Rituals of Stateless Palestinians at the Borders

As a Palestinian born in Gaza, entry to the Egyptian side of the Rafah crossing is the most challenging part of any travel for any Gazan. The ritual of traveling from Gaza usually starts months before the travel date is known. In the context of occupation and siege, the traveler is not the one who decides the date of travel; rather it is the agency of rulers, namely Hamas' de-facto government, the Egyptian government, and above all, the Israeli military. Each of them has a blacklist of travelers. The ritual of travel for Gazans begins by contacting a senior Hamas official through a tribal network, in order for them to contact Hamas' border police to let the traveler onboard the first buses. Another choice, which is very common, is the *tansiqat*. It is a mechanism of essentially buying your travel by bribing

senior Egyptian officers. The border experience is sharpened by political affiliation and one's position in the hierarchy of the political party and society (Löfgren, 1999). Therefore, a rich family who is able to bribe the border police can have much smoother travel, while a student who is linked to any political party and not wealthy will be deprived of this privilege. In 2016-2017, the price for one-person reached \$3000 USD. The Rafah border is a great business at the account of Palestinian suffering (Löfgren 1999).

In 2007, when I was travelling by air for the first time, I did not know the procedures, and therefore, I waited in the departure hall without checking in or passing the security checks. When the airport announced that the flight was boarding, I approached a senior security officer, asking him how I could reach the gate. He asked me, "where are you from and where are you going?" I answered, "Gaza and to Germany." Then, he said to me, "follow me." He was a colonel. On the way to the gate, he took me through security checks without checking my bags under the x-ray. Before we reached the gate, he asked me if I have "*halwan*," which I did not understand. *Halwan*, in my dialect, is "something sweet." Then, he was clear, and aggressively asked me if I "have dollars." I gave him \$50 USD. My travel through Rafah and bribing the officer seemed to be a norm, as almost everyone who had the chance to enter Egypt paid somehow. When I was detained at the Cairo Airport waiting for my deportation to Gaza, and then in Al Arish airport waiting for the borders to open, I had to bribe the Egyptian guards to buy us drinkable water and food, double the normal price. Arab airports for Palestinians are not only settings for late-capitalist human mobility (juxtaposing consumption, class division, and racialized sorting), but also places of fear, humiliation, and interrogation (Adey, 2004).



Figure 4. Erez Crossing. Photos source: Rima Merriman (2005) "Photostory: The Erez Crossing Point in Gaza", *The Electronic Intifada* (May 29). <https://electronicintifada.net/content/photostory-erez-crossing-point-gaza/9507>

After my terrible experiences travelling to Arab countries with a Palestinian passport and my first travels with a Swedish passport, I learned how to better deal with such troubles. The ritual began with changing my name to one that would not make it easy to guess my origins. I was lucky enough that my place of birth was documented as my neighbourhood "Shejaia" and not "Gaza." My friends, who are Swedish citizens with their place of birth written as "Gaza" face tremendous trouble every time they travel to any Arab country. In early 2017, I travelled to Egypt and the officer asked about my origins. I told him that I am Swedish. He questioned that I have a Muslim name and I told him that I am originally Turkmani to avoid more questions (the suburb in which my family lives in Gaza is called al-Turkmani). He opened his mouth and rose his eyebrow, and stamped my passport, believing what I told him. The rituals of crossing borders for a Gazan call for some deliberate clichés (like avoiding answering questions or offering half-truths) to avoid further harassment in the Middle East.

I also learned that the way I dress and the kind of job I hold matter. In most Arab countries, the entry and exit cards require writing your profession beside other details. When I travel wearing business attire, usually a suit, and write in the entry and exit card, "doctor," meaning PhD holder, I give the impression that I am not traveling illegally and have a certain social status. In Lebanon, I look for the happiest-looking border officer, and line up in front of him/her. They usually start a little chat, and I learned that this little chat often makes it easier to break the barrier and gain their trust, despite travelling legally. In Jordan, like Lebanon, little chats make it easier to avoid further questioning. In 2016, I traveled to Abu Dhabi with a suit. The border police did not send me to the intelligence office. A few months later, I travelled wearing a T-Shirt and jeans, and I was escorted to the interrogation room. When I told the officers that I am a doctor and researcher, they replied: "we thought you were an illegal worker because of your clothes." At the Sarajevo Airport in March 2018, I was asked for my Bosnian ID because my family name sounded Bosnian. I had to prove to them that I am not Bosnian, and that I am a researcher, in order for them to let me into the country. My job and my clothes were my saviors in that journey.

The fear of statelessness and border harassment continues to affect me. Whenever I travel, in Europe or abroad, I worry as I get closer to the border police. This feeling has never left me, which is a result of the first traumatic experiences in Egypt and Erez. In countries that have had some restrictions on Palestinians, like Lebanon, my fear is usually doubled, not because of a bad experience, but because being Palestinian may affect me as a "Swedish traveler." I sweat quite a bit when I reach

the officer and hand him my passport along with the boarding passes. The sound of hearing the stamps hitting my passport is so relieving. The queues at police borders are time-based prisons. My experience is one of many in situations similar to mine. With nothing to hide, traveling to conduct research and attend professional meetings, I spent the majority of my lifetime studying at universities. Statelessness is a state of mind; not a piece of paper in your pocket. Once robbed of such basic human rights, your life is reduced to a state of suspended reality. Your psyche is stamped forever.

During my travels in the Middle East, Europe, and elsewhere, I learned that travel rituals can be different for each country. However, they all share one thing; if you are of Palestinian origin, then you are an exception compared to other travelers. Further, if you happen to be from Gaza, then you are even more of an outsider, and need special conditions to enter or leave. For instance, a Palestinian from the West Bank can enter Jordan relatively easily and can travel to many Gulf countries if he has visa. A Palestinian from Gaza would be stopped and interrogated even though he has visa or foreign passport.

Statelessness Chasing Me: A Quasi-citizen

A Swedish passport in my hands does not change the status of statelessness or my identity, which is mainly defined as quazi-Swede. My name sounds Middle Eastern, always triggering the border police in the Arab world to inquire about my original ethnicity and nationality. They do not view me as Swedish, but rather they view me only through the lenses of my ethnic background and heritage. "Bare life is no longer confined to a particular place of a definite category. It now dwells in the biological body" (Agamben, 1998).

The Egyptian border police's treatment of Palestinians who are holders of the Palestinian passport is no different. However, they leave a mark in bold red on the exit/entry card: "Palestinian." My past unfortunate experiences as a stateless *Ghazzawi* continue to contribute to and worsen my PTSD symptoms at borders across the world. In April 2014, I was attending the International Political Science Students Association in Thessaloniki, Greece. At the departure gate on my way back to Milan, the border police stopped me for twenty minutes to make sure that I was the person I claimed to be. It seemed the border police were suspicious of my passport. In June 2014, I was traveling from Doha to Milan after attending the US-Islamic World Forum. The border police did not ask me any questions. However, the airline officers asked me if I lived in Sweden, and then proceeded to inquire about my exact address in Sweden. They demanded I speak basic sentences,

which I did with a smile on my face. It was a silly, yet terribly humiliating request to prove myself as a legitimate Swedish resident. My Arabic name on the passport, my face, my skin color, and my travel documents tended to make me a target for racial profiling and to raise suspicion far more than any of my fellow European citizens.

Interestingly, after being naturalized as a Swedish citizen, my life did not get any easier, especially at borders, airports, and crossings. During my first trip to Egypt since then, the border police held me for five minutes inquiring about my "real origins" and "roots" as he put it. Whenever I answered with "I am Palestinian," they asked if I was from Gaza. They also asked to see my Palestinian passport. I have learned that manipulating my origin, while crossing the borders, is the a good strategy to deal with the many overwhelming questions, police harassment, suspicious looks, and unnecessary challenges in Arab airports. When I told the Egypt border police, "I am a Swede, as you can tell from the passport," he replied, "I asked about your origins, not your passport." His statement was an indicator that my biological body is the only determinant identifier of myself in this part of the world, where my Swedish nationality will not identify me as a complete citizen with equal rights and privileges as other fellow Europeans. In the eyes of the border police, my passport and myself are two different entities. This continues to be the case in Egypt every time I visit the country.

In Jordan, the situation is different, where I am treated as a Swedish citizen at the passport stamping desk. However, I am treated as Palestinian from Gaza in the security section. One day, by mistake, I showed my Palestinian passport from Gaza. The visa fees of a European passport are \$60 USD, while for the Palestinian passport it is approximately \$10 USD. I asked the police officer at the border if I could have the stamp on my Palestinian passport and enter the country as a Palestinian from Gaza. Surprised, he replied, "enta *Ghazzawi*?" meaning, "are you from Gaza?" I said, "yes." He said, "okay, wait right there." After a couple of hours of interrogation by the secret police, I left to enter the country and paid the visa fees for my Swedish passport. The officer remarked in Arabic, "*El-marra el-Jaiyye eshtari Rahit Rasak ib 40 dinar!*" which translates into "Next time, buy your peace of mind for 40 Jordanian Dinar." He was suggesting that I should not show that I have a Palestinian passport from Gaza. Unlike Palestinians from Gaza, like myself, who need "Persona Grata" approval, my fellow Palestinians in the West Bank do not need any approval or permission to cross Jordanian borders, although they face mobility challenges within the West Bank and also difficulties in obtaining visas to Europe and North America.

In 2015, I was supposed to visit a few universities in the West Bank. After trying to enter the West Bank with my Swedish passport from the Allenby bridge, which is the only crossing to the West Bank from Jordan, I was detained for nine hours by the Israeli border police. The shouting, insults, and harassment toward me were common practice of the officers. Various security and military agencies interrogated me for several hours. I was then informed that unless I provide them with my Palestinian ID, I would be held as a prisoner. I did not have my Palestinian ID or passport on me. I told them so. Colleagues at my university in Sweden called the Foreign Affairs Department who spoke directly to the embassy in Tel Aviv. After nine hours of detention, and against my free will, I was forced to sign a document that withdrew my Palestinian registry number based on a 1952 Israeli law that deprives the Palestinians from their right to live and enter the country. At that exact moment, my statelessness was resurrected and reconfirmed yet again by an imperial power that caused my first statelessness.

I was deported back to the Jordanian side of the border, where I was welcomed in the usual way. I was subjected again, to interrogation by an intelligence officer. In that moment, I was Palestinian, stateless, yet with a Swedish passport. My first demand to the officer was to treat me as Swedish. He said he just needed some further information clarifying the reason behind my deportation. Because I carried an Arab name, and came from Gaza, it was determined that I should be interrogated, I was told.

Between 2015 and 2017, I lived in Beirut conducting research and fieldwork. Every time I departed from or arrived in Beirut, the history of the Lebanese civil war and the Palestinians' crisis in Lebanon strangled me. I filled out entry and exit forms with a strong nostalgic feeling and a haunting thought that this may be the last time I do so, or at best that it may well take me several hours to do so. The typical questions were, "do you have a Palestinian ID?" and "do you visit Palestine?" In fact, I did not have the ID, so my answer was naturally "no." Beirut's airport was the only airport in the region where being from Gaza did not render me stressed and nervous. In Tunis, they always inquired about my "origins," where it had to be stated on the passport regardless of showing them any evidence that I am Palestinian. In 2015, I had to travel to Kuwait for the American Political Science Workshop on the MENA region. At the airport, I was stopped for an hour of interrogation about how I acquired Swedish nationality. Between 2016 and 2017, I visited the UAE twice; both times, I was stopped, and I had to fill out a special application to get secret police approval.

These experiences are not mere coincidences. The Arab governments have institutionalized the state-

lessness of the Palestinians. Whatever nationality a Palestinian acquires, statelessness remains their main identity. Statelessness is a status of Palestinian travelers in the MENA region, depriving them of the privileges of crossing borders without being stranded for questioning or interrogation. To Arab border police, I am not completely Swedish. In the same way the Israelis see me as a Palestinian from Gaza, the Arab border police see me as a stateless Palestinian. My place of birth has stamped me with the birthmark of statelessness. Statelessness is not just my status; it is engraved in my genes. It is in my DNA.

Final Remarks: *Habeas Viscus*

The suffering of the Palestinians of Gaza exercised by Israel and other countries against the Palestinians is extreme political violence. Suffering has become the defining feature of the Palestinians of Gaza who are excluded from the normality of law and humanity. Gazans are degraded and animalized around borders and in border areas. The Palestinians of Gaza are not seen as individual humans but rather as political subjects who hold a specific passport and should be treated accordingly. Although some Palestinians of Gaza have foreign passports, they are identified by their flesh (origin). The conjoining of "flesh and habeas corpus in the compound *habeas viscus*" (Weheliye, 2014:11) shows how the Palestinians of Gaza became borne of political violence. Being treated as flesh works as a dehumanization mechanism expressed by the term "*Ghazzawi*." The Palestinians of Gaza were subject to dehumanization by changing their human environment, especially borders. If we consider the Gaza Strip's small size, every part of it can be considered a border zone. Israel has used technology and the development of knowledge to change the Palestinian human environment, lives and movement, which frames the lives of Palestinian of Gaza as *habeas viscus*.

Today, I am a Swedish citizen. I can cross the borders of the majority of countries in the world, with two exceptions: the place where I was born, and Sweden. My color and my name stand as a border between me and the institution that made me "Swedish." Being Swedish does not guarantee me equal treatment or rights within the country based on both my name, which does not sound western, and my color. I find myself in the position of either being "in" or "out." I am "in" when I am perceived to do the tasks that most immigrants do, such as low wage jobs, dependence on social security, exploitation of the system, and criminal activities. I am "out" when I opt for respect, self-esteem and self-realization in my domain. It is the inclusive-exclusive discourse of Agamben, where we are perceived all the same, and positioned as undesirable people between the "in" and the "out" as quasi-citizens (Khosravi, 2007).

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SPECIAL
SECTION

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Introduction: Comparing and Contrasting EU Border and Migration Policy – Are They Exemplary?

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This special section (thanks to the Jean Monnet Network, a European Union Erasmus+ Grant) explores the impact of migration crises on European borders, internal and external, from a variety of disciplinary backgrounds. The following articles adopt comparative, historical, legal, sociological, and discursive approaches in order to confront questions arising from the 2015 Schengen and Dublin political crises, which seem to have put an end to the ideal of a “Europe without borders”.*

In Europe, the 2015 refugee crisis, resulting from unexpected increases in immigration across the Mediterranean Sea into the European Union (EU), has led to a re-questioning of not only the functions of borders in controlling migration, but also of European Integration. The ideal of a “Europe without borders” was questioned because both the Schengen agreement and Dublin convention were unable to deal with what turned out to be one of the major humanitarian challenges for Europe since the end of the Second World War. It forced Europeans to face difficult past and present issues as political movements and discourses straddled a continuum from xenophobic ills to re-energized 21st century Union. What is undisputable is that no European member state or EU institution forecasted the rather sudden increased number of people moving across their borders. It revealed that the EU overall, and some of its member states, especially Germany and Sweden, had become international lands of opportunity for people in the Middle and Far East.

Until 2014, the number of economic migrants and war refugees seeking asylum in the EU had been relatively stable over the years. But in 2015, it increased tenfold in about 12 months: comparing July 2014 to July 2015, the number of registered entries into the EU increased from 6000 to 50,000. By July 2015, 350,000 people had crossed the EU borders. By the end of 2015, over 1 million refugees had been welcomed across the 28 member states of the EU: 800,000 in Germany and over 100,000 children in Sweden. Obviously, the precise numbers were much greater than what was generally reported because calculating the number of long-term migrants takes a few months. However, the big picture is available today thanks to Eurostat: From 2010 until 2014, the exact number of immigrants settling across all 28 member states of the EU was stable, at about 3.5 million each year. In 2015, the increase reached 4.1 million and by the end of 2016 it was 4.6 million (Eurosta 2020) and since then, the annual numbers have been stable but at that level.

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The country of origin of people entering the EU has become increasingly diverse. What was at stake was not just one but a number of humanitarian crises in a geopolitical context that was greater than the Syrian and Libyan civil wars and included Iraq, Sudan (Darfur), South Sudan, Eritrea and also Nigeria, Niger, Mauritania and Mali. People moved because their home countries and country of origin were economically and politically unstable and dangerous. In 2015, the top 15 countries of origin included Syria, Eritrea, Afghanistan, Morocco, Albania, Pakistan, India, Tunisia, Nigeria, Ukraine, Algeria, Serbia, Kosovo, Bangladesh and Somalia, thus creating informational (UNHCR 2017), linguistic (Translators Without Borders 2017) and security policy difficulties to reconcile identity with non-documented entries (EU 2015). Another important aspect is that, in parallel to this increase, the number of people entering without visas was also sharply on the increase, hence overwhelming both maritime and land border posts and causing a security conundrum. This contributed to higher volatility of the narratives in particular from nationalistic movements and to an entanglement of the migration and security narratives and their polarization in the European political discourses (Huysmans 2006; Guild 2009; Bourbeau 2011; Vietti & Scribner 2013, Estevens 2018), especially in the United Kingdom, where the Brexit movement was led by the United Kingdom's Independence Party (UKIP) mainly on these issues (Farage 2015).

Clearly, one striking aspect of this humanitarian crisis was that its sheer size was unexpected. In the summer of 2015, the European Commission was renewed and the President of the European Commission, Jean Claude Juncker, had just been chosen by European Council members on June 24th and confirmed by the European Parliament on July 15th. The work program agreed upon by the EU member states focused on the issue of energy in particular because of ongoing issues regarding the EU's energy dependency on Russia. Migration was only one of Juncker's top ten priorities which were job creation, the digital integration, the Energy Union, the industrial base, the monetary union, trade with the US, more justice Union, a better immigration policy, a stronger presence globally, and a more democratic Union. The better immigration policy was mainly about addressing the illegality of Mediterranean crossings and asylum seekers estimated at 153,000 for the first five months of 2015—whereas, in reality, the total number was 350,000 and nearly one million by the end of 2015. Hence, at the time, the European Commission's top ten priorities did not oversee a forthcoming increased immigration by about 1 million people in one year into the Union (European Commission, State of the Union 2015).

Up front, European member states at the periphery of the EU struggled and were overwhelmed with

health, humanitarian, and security concerns. Governments in Hungary, Slovakia, Romania, Greece, as well as the Czech Republic, Denmark, and the United Kingdom were dead-against welcoming more immigrants; government authorities struggled to implement EU standards to register new immigrants and often because of the sheer numbers of people on the move, border staff were also overwhelmed. In Hungary for instance, the military was brought in and the government built a 170-kilometer-long fence, and passed laws that made it a criminal act to cross the border or to help immigrants.

Also, the EU member states which were not on the front line but at the center of the Union, held peripheral member states to the agreed Dublin regulation to register incoming migrants (finger printing/asylum processing) despite sometimes vast differences in human and financial resources and capacities. Within weeks, while the European Commission was calling member states to implement quotas to share the humanitarian and financial costs of welcoming asylum seekers, internal borders inside the EU started to close. Governments bickered over quotas, referring to the terms of the Union's treaties, and member states progressively closed their borders, declaring states of emergency.

Obviously, this re-introduction of border controls by several EU member states symbolized a questioning of the ideal of a "Europe without borders": the "separation" function of the border seemed to have been re-asserted. Indeed, since the signature of the Schengen Agreement in 1985 and in particular with the ambitious project of the Single European Market in 1987, the internal abolition of border-checks on EU citizens, goods, and financial transfers had become one of the main objectives of European Integration.

Regarding the historical development of European Integration, "Europe without borders" has been an objective ever since establishing the European Coal and Steel Community in 1952, then extended in the European Economic Community (EEC) from 1957 onwards with the creation of the Common Market, i.e. a European market without tariffs and trade barriers. In 1985, the Schengen Agreement, first concluded by France, Germany and the Benelux States, was another push towards the idea of a "Europe without borders." It propelled the project of a Single European Market (SEM) with four areas of free movement: goods, services, capital, and people.

Thus from the mid-1980s and until the end of the century, European integration policies of de-bordering were in focus. The European Community implemented the ideal of "borderless Europe" by enhancing internal movements and cross-border policies. For instance, in 1985, the goal

of then president of the European Commission, Jacques Delors, was the completion of "borderless Europe" by means of the SEM (COM/85/0310), which also included introducing procedural change on the Community's decision-making process. The Single European Act in 1986 enlarged the use of qualified majority vote and thus ensured much market integration of goods in the 1990s. This was also due to the EU's new competition policy and powerful Competition Directorate that worked at preventing anti-competitive corporate behaviours across the Union. These successful policies were then followed in early 2000 with a liberalization of the service sector.

Also, the European Commission supported the implementation of free circulation by increasing support to cross-border cooperation at the internal and external EU borders. The Interreg program policies expanded from one to 28 billion between the first and fifth programming periods in 2020 (INTERREG 2020a) and whereas the initial programs focused on cross-border infrastructures (2020b), the following periods emphasized increasingly the objective of a "borderless Europe" in terms of territorial cohesion in border regions (INTERREG 2020c). With the development of the Interreg program, cross-border cooperation gradually became a tool for the EU to reach the ideal of "borderless Europe"—at least internally.

The management of external borders was predominantly understood as managing migration. But, it was not an issue of concern until 2015 even in border regions (Interact 2017), where the awareness and knowledge of the border as a boundary line and an obstacle to free movement had always existed. Initially, migration was not considered as a potential threat to the implementation of good trading and neighbourhood relations in and across the EU. Indeed, the goals were to overcome borders as "a scar of history" and that was the main incentive to start cross-border cooperation for many border regions. However, paradoxically, it seems that the more cross-border cooperation developed, the greater the awareness regarding the persistence of the borders in border regions and the perceptions that borders do divide the EU, that the Union is regionally and nationally diverse (Medeiros 2015, Cojanu and Robu 2014; Ciok and Racyk 2008; Leibenath and Knippschild 2005). Also, after the integration of the Schengen Agreement into the EU Amsterdam Treaty in 1997, external problems of border management progressively became more apparent: refugees and migrant management (and mis-management) led to increasing difficulties in cross-border relations across the internal and external borders of the EU. The Schengen border "Calais-Jungle" camp between France and the United Kingdom is an illustration of such border

management problems (Freedman 2018). This reality led to further investments in the EU's neighbourhood policies (Barslund 2019).

However, the advent of the 2015 migration crisis spurred a general Schengen crisis. Following the uncontrolled massive inflow of migrants and refugees into the EU, several member states suspended the Schengen Agreement, which led to the impression that, due to the re-bordering which was taking place within the internal borders of the EU, the ideal of 'borderlessness' had come to a historical end (European Parliament 2016).

Facing the 2015 crisis, the European Commission relied on two major policy tools: the Dublin Regulation and the Schengen Agreement. The Dublin Regulation of 2003 establishes which EU member state is responsible for asylum applications and the basic principle is that the first EU member state where a migrant or asylum seeker sets foot is responsible. The first-entry-point principle raises a very serious issue of financial and bureaucratic capacities for the EU's peripheral member states, in particular when those states are the poorest and newest members of the Union. EU member states such as Spain and Portugal for example had dealt with immigration issues since the early 1980s, but much more recent members such as Hungary or Romania did not have the staffing or equipment to manage a sudden increase immigration into their countries, and they were now on the front line. This well-known issue worsened in the summer 2015 when policy disparities, financial and bureaucratic capacities became unbearable for these external states. The first-entry-point principle is only manageable when the number of undocumented migrants is not in the thousands per day as was the case in the summer of 2015.

These tensions between EU member states had already been flagged in 2008 by the European Parliament. It had suggested in its report that "the Dublin system ... continues to be unfair both to asylum seekers and to certain member states" (UNHCR 2008) and, as noted by Morano-Foadi (2015), this imbalance of responsibility also affected the protection and implementation of human rights in the EU because it affected both the Court of Justice of the European Union and the European Court of Human Rights of the Council of Europe. Indeed, rights-standards of protection could not be met by member states, thus failing both on the counts of providing substantive justice and of fair asylum procedures across the EU. As noted by the European Parliament, this was particularly salient because asylum applications took months to process and applicants had to wait in facilities that in many cases did not uphold clear European and international standards of human decency and

protection, in particular, along the east-European front and the borders with Turkey. Greece, Bulgaria, Romania and Hungary are known cases of deplorable humanitarian conditions for asylum seekers. However, Human Rights Watch, in its 2018 EU report, also singled out and criticized other EU member states. For instance, it criticized Croatia for pushing back migrants to Bosnia. It highlighted bad conditions in the camps of La Villette in Paris and of Grande-Synthe in northern France. It also denounced Germany for its deportation practices (and noted increased xenophobic demonstration and violence), Greece for hosting asylum seekers without protecting their rights to health and schooling, Hungary for criminalizing services, advice and support to migrants, Italy for handing over migrants to Libyan coast guards, and the Netherlands for refusing to confirm how many of its citizens had lost their citizenship due to terrorist activities. Poland was blamed of undermining human rights protection, Spain for using excessive violence to crack down and killing on migrants in Ceuta. Finally, the United Kingdom was cited for complicity with CIA-led torture and secret detention. However, the report also praised the EU for promoting human rights globally and for working with neighbouring states, but it noted as well that the EU's agreements with Turkey, Libya, Egypt and Sudan meant that it was "mute" on human rights violations in those countries (Human Right Watch 2019).

Nevertheless, the EU's response to the migration crisis was to mobilize large resources to increase the policy capacity of member states, neighbourhood states, and of the competent EU agencies (EC Annual Report 2018). On the issue of migration, the Asylum, Migration and Integration Fund (AMIF) focusing on increased solidarity and on the management of migration increased to 3.137 billion euros (AMIF 2020). It enhanced specific actions such as the External Border Fund, the European Return Fund, the European Refugee Fund and the European Fund for Integration of third Country Nationals. Also, a 3.8 billion boost went to the Internal Security Fund (ISF-Border, Visa, 2020) for borders, visa and police cooperation to strengthen internal security, law enforcement cooperation, and the management of the external borders of the EU. Hence, the ongoing debate about Fortress Europe may be a reality in particular because the primary goals of EU border and security policies are about stopping migrants from entering the EU. Indeed, neighbourhood countries (such as Turkey and Libya, but also Morocco, Lebanon, Jordan) seem to be turned into "destination" countries as they host migrants long term in their workforce or in camps. And also, there are striking examples of informal policy agreements between the EU and neighbourhood countries whereby migrants can be pushed back and forth across the Schengen borders at EU

member states' will (Triandafylidou 2013; Cassarino 2010, 2007; Geddes 2005). Last but not least, the number of orders to leave the EU have increased dramatically to 500,000 per year since 2015 (EC Annual Report 2018, 70).

In this special section, we ask whether the specific 2015-16 political and policy responses to increased migration in Europe are permanent and how they affect EU integration and the ideal of the 'borderless Europe' and its corollary, 'Fortress Europe'? What are the consequences for migrants' rights in the EU, for Schengen borders, and for EU cooperation? And what were the impacts on cross-border relations and cooperation? Last but not least, we review the politics and policy narratives that framed the contexts of those policy answers, asking whether they are permanent or temporary measures to the migration crisis.

In the first of five articles, historian Birte Wassenberg deals with the "myth" of a borderless Europe in European Integration history. Wassenberg suggests that the Schengen crisis, spurred by the migration wave across the Mediterranean Sea in 2015, has led to a re-questioning of the ideal of a "Europe without borders". She suggests and demonstrates that there is a difference in the concept of a "Europe without borders" in terms of free movement of goods, services, capital, and, people, on the one hand, and, on the other, the constructed "myth" of a "Europe without borders" where all borders of the EU are assumed to have negative functions and should therefore disappear. The Schengen crisis helps to unravel this "myth" by demonstrating that borders can also have positive functions, that they persist within the EU and that their control remains a competence of EU member states. Wassenberg shows that the re-introduction of border controls has not put an end to a "Borderless Europe" in terms of free circulation of capital, services and goods, which has not been interrupted. Even when looking at the free movement of people, from legal perspective, the temporary suspension of the Schengen convention was authorized and the checks at the border only signified a delay and not a disruption of the possibility of crossing the border. However, the Schengen crisis has ended the "myth" of a "Europe without borders" and "borderlessness" as construed since the mid-1980s under the influence of the European Parliament and the European Commission, which suggests that it actually means the abolition of political borders and the creation of a European Federation. This "myth" had turned the ideal of a "Europe without borders" into the final objective of European integration and it might have become an end in itself. Adopting a less mystified perspective on "Europe without borders" helps to better explain the processes of de- and re-bordering in Europe and its relationship

with European integration. By adopting a less unidimensional concept of borders regarded only as "negative" barriers the article helps to understand why most borders—i.e. political, administrative, cultural, territorial—have not disappeared and why border controls may be reintroduced by EU member states. Wassenberg therefore illustrates that a "Europe without borders" as a generalized all-englobing phenomenon has never existed and that not only de-bordering but also re-bordering continues to exist within the EU.

In the second article, Anja Bartel, Catherine Delcroix, and Elise Pape look at the Dublin convention from a sociological point of view. They remind of the original intent of the convention: it is based on the principle that the first member state in which an asylum seeker enters and where finger prints are stored is responsible for the person's asylum procedure. Especially since the increased number of asylum seekers in Europe in 2015, this regulation has been more and more criticized: on the one hand, it increases pressure on the external border regions of the EU, where most asylum seekers enter and that are at the same time often the least able to ensure their social protection. On the other hand, the asylum seekers themselves are given no choice in determining the country in which they wish to live and plan their future. Despite the Dublin convention, however, a large number of asylum seekers have de facto lived in two or more European countries and have in some cases applied for asylum in more than one country. The chapter discusses the effects of EU regulations on individual and family lives but also the way individuals and families challenge EU legislation. It is based on the method of biographical policy evaluation which, rather than assessing policies through top-down approaches, evaluates them in the light of individuals' experiences, thereby analyzing the detailed longitudinal effects of policies on life paths, but also strategies individuals employ to adapt to (or resist) these policies. Drawing on biographical interviews conducted with individuals and families seeking asylum who have lived in different EU member states and who are now based in Strasbourg, the article analyses the way different levels of policies interact in their lives: the European, national and communal levels, how these persons have managed to adapt to different European countries (for example by learning different European languages) and how living as a family as opposed to living alone has impacted this process. Interviews with professionals in the field of asylum are also referred to. In sum, the paper discusses how internal and external EU borders have impacted the refugees' lives and how refugees have challenged borders within Europe and the current regulatory system.

Frédérique Berrod assesses, from a legal point of view, the consequences of the Schengen crisis for the internal and external EU borders. The impact of

the Schengen crisis on migrants is assessed both from a legal and a sociological perspective. Berrod hypothesizes that the EU was established on the ideal of a "Europe without borders", meaning the elimination of internal borders with a counterpart being the transfer of border controls to the EU's external borders. In the Schengen Area, external borders are controlled by common principles and procedures regulated by the Schengen Border Code. Member states negotiated the Schengen Agreement to maintain such border controls, to be able to protect their citizens from various dangers, and to guarantee their national migration policies towards third-country nationals (non-European), whereas cross-border cooperation has been developed to reinforce the security of the Schengen space of free movement. EU member states have therefore transposed the function of national border controls to the external EU borders. The migrant crisis has reinforced these external borders by a more systematic control of citizens to check their movements and to cross the available data centralized in EU databases. For this purpose, the member states have even accepted a European specialized body of controllers, the new Frontex. The Schengen Agreement has also resulted in a common security policy based on "open intelligent borders" and on the externalization of certain controls to so called 'hotspots' located either at the external EU borders or even in third countries. Berrod examines such policies also from the point of view of the respect of human rights: is it possible to control citizens at the borders and at the same time to guarantee an effective respect of human rights? What is the purpose of cross-border cooperation in this context? The question of the reallocation of migrants within the EU, based on the principle of solidarity between member states is also addressed. The Schengen crisis is in fact constituted, from a legal perspective, by the political will of certain EU member states to bring back systematic controls of their citizen and migrants. Thus, there is a new focus on national borders, because the member states are not confident and perceive vulnerabilities in the common control of external EU borders. The Schengen Border Code was adapted to guarantee such national decisions to re-establish controls at national borders but also to avoid any unilateral decision. The risk of the return of national borders within the EU is therefore assessed by Berrod in the context of the difficulty of maintaining proportionate and provisional national border checks. The analysis is concentrated on the point of the governance of Schengen exceptions: is it possible to organize a common EU governance of these national decisions? The question of the necessary cooperation of EU member states with the new Frontex is also addressed to understand to what extent it means—or not—a crisis of cross-border cooperation.

Also from a legal perspective, Aude Bouveresse demonstrates that inside the territory of the EU, borders are necessary and problematic at same time. Indeed, while the functioning of the internal market is essentially based on the freedom of movement and implies the elimination of borders as barriers to trade, the problem is that the freedom of movement of the European citizen also remains embedded in this conceptual framework of borders. This is due to the fact that the EU's competences remain limited in the social field concerning the management of the internal market on the one hand and that the concept of European citizenship remains largely dependent on nationality, which cannot be considered outside national borders, on the other hand. In other words, nationality determines the status of European citizen and the rights deriving from it. Bouveresse gives an analysis of the EU's case law on this dialectic relationship between borders and citizenship. The European Courts' approach seems ambivalent since it conditions access to European citizenship and has to combat all forms of discrimination on grounds of nationality which hinder the establishment and functioning of the internal market, but also has to allow member states to maintain a special relationship with their nationals. Thus the application of the EU treaties requires the nationality criterion underlying European citizenship to be taken into account and protected, just as the exercise of freedom of movement requires combating the nationality criterion, and both pursue the same objective of advancing European integration. However, Bouveresse shows that when the Court legitimizes the nationality criterion in support of a differentiation of European citizens, it creates in fact new borders, i.e. between nationals and non-nationals. By revalorizing nationality in this way, the European Court of Justice runs the risk of slowing down the integration process or even calling into question its model by running the risk of a renationalisation of the individual and raising new frontiers.

Finally, Claude Beaupre and Franziska Fischer examine the narratives and discourses of the 2015 refugee crisis and their impact on border security in France and Germany. Their assumption is that what truly made the refugee and migrant crisis such a phenomenon was not the sheer number of individuals making their way to Europe, nor the seemingly ceaseless casualty reports it generated, but first and foremost the context in which it developed. Already in 2015, sensitivities towards foreigners were heightened in most of Europe. By then, the continent was attending to the complexities of the increasing frequency of Islamist-linked terrorist attacks since 2006, the 2008 financial crisis, the Greek debt crisis of 2010, the Crimea/Ukraine crisis of 2014, and the increasing support for right-wing, nativist political parties agitating EU politics. The culmination of this led many European states to adopt temporary border controls along their internal borders. For some, this tendency towards more borders has become

a new status quo from which two trends have been identified: controlling the movements of refugees and migrants (exemplified by Germany) and countering terrorist threats (exemplified by France). In both cases, dubious representations have created a change in the discourse of the label 'refugee' which now not primarily sparks fear, disdain, and rejection from the public, and also fails to differentiate between the multiple identities and legal-entities that enter Europe. As such, the frequent portrayal of these refugees as security threats makes border security a tool with which to regain control over this perceived threat. In the end, this contribution helps us understand some of the elements which have led France and Germany to perceive the events of 2015/2016 as a danger to national security. By briefly outlining the historical development in both countries and their respective shift in perception of the label 'refugee,' Beaupre and Fischer aim to present the different factors which led them to take on the same course of action: reintroducing border controls.

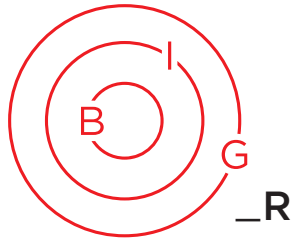
Note

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ARTICLE

The Schengen Crisis and the End of the Myth of “Europe Without Borders”

Birte Wassenberg *

The European Schengen crisis, spurred off by a wave of terrorist attacks in Europe and an unexpected increase in migration across the Mediterranean Sea in 2015 led to a re-questioning of the functions of borders in European integration. The ideal of a “Europe without borders” has been particularly affected. Indeed, the re-introduction of border controls in several Member States of the European Union (EU) symbolized a new obstacle to free circulation in Europe and the “separation” function of the border seems to have strengthened. This contribution will argue that the Schengen crisis has not put an end to “Europe without borders” in terms of free movement of goods, services, capital and people. It will claim instead that there has been a construction of a “myth” of “Europe without borders” with a different meaning, i.e. in which “Europe without borders” is not a means to an objective but an objective in itself, that of an EU where all borders are assumed to have negative functions and should therefore disappear. The Schengen crisis helps to unravel this “myth” by demonstrating that borders can also have positive functions, that they persist within the EU and that their control remains a competence of the EU Member States. Adopting a less mystified view of “Europe without borders” and assessing its origin and development from a disciplinary approach in Contemporary History, helps to better explain the processes of de- and re-bordering in Europe and their relationship to European integration.

Introduction

When looking at the historical development of European integration, it seems clear that the objective of a “Europe without borders” has been pursued ever since the setting-up of the European Coal and Steel Community (ECSC) in 1952 and has materialized with the creation of the European Economic Community (EEC) in 1957 and its project of a Common Market without tariffs and trade barriers (Gaillard, 2004, 32-33).

In 1985, the Schengen Agreement, which was first concluded by France, Germany and the three Benelux States (Belgium, Luxemburg and the

Netherlands), was to further push towards the ideal of a “Europe without borders” by abolishing internal border checks for people (Cunha, Silva, Rui, 2015). It was primarily designed in order to facilitate the implementation of the EEC’s project of a Single European Market with four areas of free movement: goods, people, services and capital. The focus of this borderless Europe was therefore placed on internal free movement and the ideal of a “Europe without borders” was shaped accordingly (Wassenberg, 2019, 43-65). It became one of the means to achieve European integration and the Schengen Convention became part of this strategy. The latter

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was indeed integrated into the Amsterdam Treaty of the European Union (EU) in 1997 and was to be applied by all Member-States as well as being open for participation of neighbouring EU States (Coelho, 2015, 1-3). By 2015, 26 States had gradually acceded to Schengen, four of which were not members of the EU (Iceland, Liechtenstein, Norway and Switzerland) and only two EU Member-States, the UK and Ireland, were granted the possibility of an opting out. The ideal of a "Europe without borders" seemed therefore to have been largely achieved and even to expand beyond the geographical scope of the EU.

It is not surprising that the Schengen crisis in 2015 has therefore come as a shock to the EU. This crisis, spurred off by a wave of terrorist attacks against Europe and an unexpected increase of migration across the Mediterranean Sea in 2015 has led to a re-questioning of the functions of borders in European integration. The ideal of a "Europe without borders" seems to be crumbling. Indeed, since 2015, the re-introduction of border controls in several EU Member States has symbolized a new obstacle to free circulation in Europe: the "separation" function of the border has been largely strengthened.

However, does this mean the end of the ideal of a "Europe without borders" or was it only a temporary policy response to a new crisis in Europe? By analysing the re-bordering policies and their political, legal and economic consequences on the EU and the Schengen Convention, this contribution argues that the Schengen crisis has not resulted in the end of free circulation in Europe. It maintains however, that the Schengen crisis has put an end to a certain interpretation of the ideal of a "Europe without borders", *i.e.* a constructed "myth" of an integrated EU where all borders are assumed to have negative functions and should therefore disappear (Börzel, Risse, 2018, 83-108). It will unravel this "myth" of a "Europe without borders" by pleading for a less unidimensional, more differentiated view on borders which not only takes into account their negative but also their positive functions within the EU.

1. The ideal of a "Europe without borders"

In order to understand the consequences of the Schengen crisis in 2015 on the "Europe without borders", a first look has to be taken on the origins of the ideal of a "Europe without borders" in the process of European integration.

The model of a borderless Europe was already a crucial element at the beginning of the 1950s, when the European Coal and Steel Community (ECSC) was founded and it has been closely linked

to Jean Monnet's functional approach to European integration. (Schimmelfennig, 2015, 969-989) The Schuman Declaration of 9 May 1950 indeed stated that "the movement of coal and steel between member countries will immediately be freed from all customs duty" (Schuman Declaration, 1950). It did not explicitly mention the term of a "Europe without borders", but it did explain that the elimination of economic borders in the coal and steel market was a first step towards the ultimate goal of a European federation: "The pooling of coal and steel production should immediately provide for the setting up of common foundations for economic development as a first step in the federation of Europe" (*ibid.*). The functionalist approach in fact identified the elimination of economic borders (customs duties) as one step towards European unification, *i.e.* the "Europe without borders" was clearly a means to achieve a higher goal, that of a European Federation. The Treaty of Rome signed on 25 March 1957 confirmed this approach by enlarging the ideal of a "Europe without borders" to the general elimination of customs on goods: "The activities of the Community shall include (...) the elimination, as between Member States, of customs duties and of quantitative restrictions on the import and export of goods, and of all other measures having equivalent effect" (Treaty of Rome, 1957, Art. 3). But it also linked it to the principle of free circulation by preconizing "the abolition (...) of obstacles to freedom of movement for persons, services and capital" (*ibid.*). This ideal of "Europe without borders" was first implemented when the European Economic Community (EEC) was set up in 1958, as it provided for the creation of a Common Market without any customs barriers by 1962. From the start, therefore, it was linked to an economic approach to borders as obstacles to the free circulation of goods (Wassenberg, 2019, 44).

It was only in the mid-1980s, when the ideal of the "Europe without borders" was then pushed further on with the project of the Single European Market, where not only economic customs barriers were eliminated, but where the free circulation of people, services and capital was also guaranteed. However, even if this project now foresaw not only the free movement of goods, the reference to people was made from an economic perspective, with regard to the free circulation of workers, *i.e.* as factors of production in the EEC (Thielemann, Armstrong, 2012, 148-164).

It has to be underlined, that, whereas the Single European Market was a project which was proposed in 1985 by the Jacques Delors Commission in order to create an area of free circulation between goods, services, capital and people, the idea to abolish border checks for people was not originated from within the EEC (Warloutzet, 2019, 258-268). It was

an initiative taken by a small number of Member States, namely France, Germany and the three Benelux countries, as a response to the successive strikes of Italian and French Custom officers in 1984, who complained about their increasing work load at the border following a French truck driver strike. It was therefore in order to facilitate the free circulation of goods that, on 14 June 1985, on the Princess Marie-Astrid boat on the river Moselle, near the town of Schengen, the 5 States signed an inter-governmental agreement, the so-called "Schengen Agreement" which proposed measures intended to gradually abolish border checks at the signatories' common borders (Blanco Sío-López, 2015, 33-50).

This approach was thereafter confirmed at the EEC level. After the adoption of the Single European Act by the 12 EEC Member States on 16 February 1986, which prepared the way for the creation of a Single Market by 1992, the European Commission presented a report in March 1988 on the obstacles to free circulation, the so-called Cecchini report, named after its author, Paolo Cecchini, a high civil servant in the European Commission (European Commission, 1988). The report contained 6000 pages of assessment of the "costs of non-Europe" which were estimated at a minimum of 4.25% and a maximum of 6.5% of the Gross Domestic Product (GDP) of the EEC. According to the report, barriers to trade would not disappear if borders were maintained technically (by means of national administrative regulations) and fiscally (by means of indirect taxes resulting in lengthy and costly border formalities), but also physically (by means of border controls of people within the EEC) (ibid.). The Cecchini report expressly mentioned for the first time the ideal of a "Europe without borders". It took up the idea of the Schengen Agreement, which enlarged the concept of a "Europe without borders" from the economic free movement of people, *i.e.* the right to work or study freely in another EEC Member State, to a "political" free movement. For, what it abolished, was not the economic obstacles (customs) but the identity checks of people (passports) (Guild, 2001, 13). This political freedom of movement was not easy to put into practice, as it implied common controls at external borders in order to guarantee the checks of arrivals from outside the EU, on the one hand, and an increased internal police and justice cross-border cooperation in order to avoid trafficking and abuses within an opened space of free movement, on the other hand (Sacramento, 2015, 115-127).

The original Schengen Agreement provided for a "harmonization of visa policies, allowing residents in border areas the freedom to cross borders away from fixed checkpoints, the replacement of passport checks with visual surveillance of vehicles at reduced speed, and vehicle checks that allowed

vehicles to cross borders without stopping" (Art. 2, 6 and 7 of the Schengen Agreement, 1985; Infantino, 2019). In 1990, it was supplemented by the Schengen Convention which envisaged the abolition of internal border controls and a common visa policy. For the internal borders, it also provided for the creation of a Schengen Information System (SIS) to ensure the exchange of data, the sharing of information on criminal matters and to coordinate investigation of cross-border crimes (Beyers, 1993, 83-107). The Convention only entered into force on 25 March 1995, but by then, Italy, Spain Portugal and Greece had also signed it, followed in April 1995 by Austria, Finland and Sweden. It is thus not surprising to see that, whereas it had been first developed outside the EEC legal framework, it was then rapidly integrated into the Amsterdam Treaty of the European Union (EU) in 1997 and became the so-called Schengen "Acquis" (OJEC, The Schengen Acquis, 2000). However, from the start, the "Schengen Area" did not correspond to the scope of the EU, for the UK and Ireland had negotiated an opting out and two external States, Norway and Iceland, had concluded an association agreement with the Schengen members in 1996 in order to become part of this "Europe without borders". The Schengen rules were codified by a Schengen border code in 2006 which guaranteed a uniform application of the principle of free movement of people, *i.e.* the absence of any controls on persons, in the "Schengen Area" (Regulation (EC) No 562/2006).

In 2007, the Lisbon Treaty confirmed the institutional framework of the Schengen Area and it therefore seemed that the ideal of "Europe without borders" was successful and operational. This assumption was shattered by the Schengen crisis which threatened the ideal, as it resulted in a re-bordering process within the EU.

2. The Schengen crisis: the end of the ideal of a "Europe without borders"?

When the Schengen crisis occurred in 2015, it disrupted the principle of free movement as it resulted in the successive reintroduction of border controls by several Member States of the Schengen Area (Wassenberg, 2020 a). But did this mean the end of the ideal of a "Europe without borders"?

The crisis had basically two different origins. The first were the Islamist terrorist attacks against France in Paris in November 2015, which resulted in the French government proclaiming a state of emergency and suspending the Schengen Convention for an undetermined period of time for security reasons. The second was the migration crisis in Europe, spurred off in August 2015 by the German Chancellor Angela Merkel, who, with her phrase

"*wir schaffen das* (we can manage this)", induced a massive inflow of refugees into the EU (Schmelter, 2018, 157-167). After the Hungarian authorities decided to open their borders, a domino-effect of de-bordering began. Indeed, the migrants travelled, via Austria, towards Germany, thus suspending the Dublin Regulation of the control of refugees at the "first point of entry" into the EU (Martin and Macdonald, 2015). Germany decided to suspend the Dublin rule in general and this welcoming policy was first also applied by Austria and Sweden who accepted a massive arrival of refugees. But the internal de-bordering process then resulted in other EU Member States taking re-bordering measures. This was due to the fact that, once the Dublin Regulation had been suspended, within the Schengen Area, the migration flow affected other EU Member States, who did not practice the same welcoming policies as Germany or Sweden, for example. Even if France, Denmark, Belgium and the Netherlands were not first choice destinations and had not been subject to a massive inflow of migrants, they still started to argue, by the end of 2015, in favour of re-establishing internal border controls as a reaction to the collapse of the Dublin system. Progressively, by the end of 2015, first Denmark, then Belgium and the Netherlands reintroduced border controls. Then, ironically, by spring 2016, the initial "welcoming countries", i.e. Germany, Austria and Sweden were also revising their open border policies (Colombeau, 2019, 2258-2274). Austria was the first country to impose a daily quota on asylum claims in order to limit the flux of migrants travelling through the country. Even Germany and Sweden, who started to be overwhelmed by the uncontrolled entry of thousands of refugees finished by reintroducing internal border controls (Lovee, 2017, 127-143). The re-bordering policies created not only a problem for the refugees trying to enter their country of destination, but it also disrupted cross-border flows in many EU border regions, especially those with a high proportion of cross-border workers. In these regions, where the awareness and knowledge of the "border as a boundary line", as an obstacle to free movement, had always existed, "Europe without borders" was a day-to-day reality which the Schengen crisis now disrupted.

The media reacted unanimously with regard to this crisis announcing the end of the "Europe without borders" and accusing the EU of having failed to achieve its main objective (BBC News, 2016, Tajani, 2018, Beaupré, 2018). However, whereas the bordering policies did obstruct the free circulation of people, it did not mean that the borders were closed or that the Schengen Convention was in any way abolished. From a legal point of view, the Schengen code indeed allowed for the temporary reintroduction of border controls at internal borders in the event that "a serious threat to public policy

or internal security has been established" (Art. 26 of the Schengen Borders Code). The condition was that these border controls must remain exceptional and respect the principle of proportionality and that the scope and duration of the border control should be restricted in time. As most EU Member States, except for France, had announced a re-introduction of border controls limited to a period of six months, the Schengen crisis did therefore not constitute an infringement of the Convention (Guild *et al.*, 2015, 3-10). Indeed, this crisis was not the first occasion for Member States of the Schengen Area to use the possibility of temporarily reintroducing border controls – for different reasons. It had already been the case, for example, in 1995, when France, following a wave of terrorist attacks in the Summer, had used the mechanism of partial suspension for a limited time. Portugal had also introduced checks several times along its border with Spain for security reasons, during the UEFA Euro Championship in 2004 and when Portugal hosted the NATO Lisbon Summit in 2010. Also, during the same year, Malta used the mechanism because of the state visit by Pope Benedict XVI (Guiraudon, 2011, 773-784). A partial suspension of the Schengen Convention did therefore not mean the end of the ideal of a "Europe without borders".

Furthermore, from an economic point of view, the Schengen crisis did not lead to new barriers, as the free circulation of goods in the Single European Market space was at no moment suspended, nor the free circulation of services or capital (Fijnaut, 2015, 313-332). Even when considering the free circulation of people, the Schengen crisis only created partial obstacles to free movement. Thus, whereas border controls were indeed reintroduced at the land borders, this did not mean that the borders were closed to citizens from the EU (European Parliament, 2016). They only had to count on delays due to identity checks, but could still cross the border. Also, in border regions with a high proportion of cross-border workers, public opinion quickly turned against state authorities and demanded a rapid end of the border checks. Indeed, after five month of travel obstruction on the Oresund bridge between Sweden and Denmark, which caused significant delays for the 20,000 daily cross-border workers, the Swedish state authorities had to reopen the border in May 2017 (The Telegraph, 2017).

Finally, from a theoretical point of view, in the area of globalization, the processes of bordering have become more complex and can no longer be limited to an analysis of border controls at state border lines. Indeed, globalization and the process of European integration within the EU undermine the traditional axiom of geographical border "world partitioning" (Retaillé, 2011, 23). Alongside the classical state borders, "mobile spaces" thus introduce new forms

of limits which are not territorialized and may "go beyond the anachronism of common models, such as the opposition between networks and territories" (Ibid., pp 27-30.). This means, that, despite the re-introduction of physical border controls within the Schengen Area, mobility across borders was still possible in terms of cross-border networks and communication flows which continued to function because the physical border was not an obstacle for them.

Overall, during the Schengen crisis, free mobility therefore stayed intact in terms both of cross-border flows and in terms of the four fundamental freedoms enshrined in the Lisbon Treaty of the EU, *i.e.* the freedom of circulation of goods, capital, services and people, including the freedom of citizens of EU Member States to travel to another State, to reside, work or study there.

However, if the Schengen crisis has not ended "Europe without borders" in terms of free circulation, it has questioned a certain interpretation of this ideal, which has been forged as a "myth" in the course of the European integration process.

3. The end of a "myth" on the "Europe without borders"

The Schengen crisis has indeed resulted in unravelling a "myth" which has been constructed around "Europe without borders" and which largely went beyond the meaning of free circulation of goods, people, services and capital (Wassenberg, 2017). In order to understand this process, this "myth" as opposed to the ideal of a "Europe without borders" first has to be explained more in detail.

The myth emerged in the 1980s under the influence of two EU institutions: the European Parliament and the European Commission. It was not built up deliberately, but it developed by converting the objective of free circulation into the final objective of European integration. On the one hand, the original ideal of the suppression of borders to facilitate free circulation was turned into an end in itself and not as a means to facilitate further European integration. On the other hand, the term "Europe without borders" was now associated with the final objective of European integration as it was expressed by the founding fathers of the EEC – Robert Schuman, Konrad Adenauer, Paul-Henri Spaak, Alcide De Gasperi – *i.e.* to eventually create a European Federal Union, in which national state borders would be merged into a Federation. "Europe without borders" then became a concept not only linked with the suppression of economic borders, but with the idea of European identity, citizenship and, ultimately, with a European Federation (Berezin and Schain, 2003). But it also was a myth,

as it suggested that within the EU, all borders were to progressively disappear, although, in reality, the European integration process only progressed on the route of elimination of economic borders. This myth also implied that borders have necessarily a negative function, as the removal of borders in general becomes a teleology.

Within the European Parliament, it was an intergroup, the so-called Kangaroo Group, created in 1979, which facilitated the creation of this "myth" of a "Europe without borders". The Kangaroo Group was known as the Movement for Free Movement within the European Community and, by the mid-1980s, it had made out of the ideal of a "Europe without borders" a philosophy in itself, turning it into the ultimate objective of European integration (Wassenberg, Schirmann, 2020, 27). Founded by Basil de Ferranti, a British Conservative and President of the European Parliament's Economic and Social Committee, the group chose the kangaroo as its emblem for its ability to overcome obstacles without difficulty – thus suggesting that borders in general should always to be overcome. In a way, the choice of this emblem, which is not a European animal, but an almost fantastic creature of the near mythic and mysterious Australia, somehow reveals the shift from an ideal towards a myth of a "Europe without borders". Indeed, "kangaroo" can suggest fake or phoney, as in a "kangaroo court", perhaps just like the idea of a "borderless" Europe. Campaigning for the completion of the internal market, the Kangaroo Group quickly brought together Members of European Parliament (MEPs) from very diverse backgrounds – Socialists, Christian Democrats, Liberals – who met during the Strasbourg session for a monthly lunch. Political figures from various Member States and representatives from the private sector, including entrepreneurs, were invited in order to exchange ideas on how to advance free movement within the Community. The Kangaroo Group was, first and foremost, a strong supporter of the removal of economic borders in the European Community, as they were perceived as obstacles to the completion of the internal market. However, their movement resulted in the creation of a "myth" by suggesting that European integration could only succeed if a "Europe without borders" was accomplished. This "myth" was nourished by the press coverage of the Group, but also by the Group itself, for example by the German Social Democrat, Dieter Rogalla, who, in order to publicise this "Europe without borders", made a journey by bicycle, beginning in 1982, which involved crossing the borders between all the countries of the European Community (Wassenberg, Schirmann, 2020, 77).

But it was the European Commission which linked the concept of a "Europe without borders" with the ideal of a European Federation, in the context of the

project of the Single European Market. This project advocated the elimination of "all internal economic borders in Europe", as the President of the European Commission, Jacques Delors announced in January 1985, when he presented his White Paper on the accomplishment of the internal market (European Commission, 1985). However, Jacques Delors was a federalist and his ultimate objective was not the Single European Market in itself, but he used it for the purpose of a European Monetary Union (EMU) coupled with that of a political union, both of which were negotiated at the Intergovernmental Conference in 1991 and led to the Maastricht Treaty in 1992 (Bussière and Maes, 2109, 229-252). The "myth" of a "Europe without borders" was created by suggesting that the achievement of the internal market in 1992, which coincided with the creation of the European Union (EU), meant that a European Federation was now being implemented. In reality, however, the Treaty of Maastricht set up a three pillar institutional framework for the EU where two key policy areas stayed intergovernmental: the Foreign and Security Policy and Justice and Home Affairs. Only the Community pillar, within the field of Monetary Affairs, scheduled an abolition of economic borders with a set timeline for the EMU (ibid.). Thus, political (state) borders were never intended to disappear and the EU has therefore always been qualified as an organization *sui generis*, but not as a European Federation.

The "myth" therefore did not correspond to the reality of the "Europe without borders" which stayed an ideal of free circulation with the suppression of economic, but not political borders. This also applied to the Schengen Agreement of 1985 which envisaged the abolition of border checks of persons, but still did this from an economic perspective, *i.e.* to facilitate the implementation of the Single Market. Also, the Agreement did not eliminate borders, but only internal border controls, which had to be compensated by increased controls at external borders in order to guarantee the checks of arrivals from outside the "Schengen Area" (Ullestad, 2018, 219-239). It also provided for the possibility of "mobile" customs checks, which would not necessarily take place at the border itself and thus created the notion of "mobile" borders which can be displaced inside the EU Member States in order to be able to still proceed with identity and customs checks when necessary (Amilhat-Szary, 2015, 4-20). The "myth" of a "Europe without borders" was therefore created by a pro-Europeanist discourse on European integration by EU institutions which did not take into account the complexity of borders and their different functions. It was constructed from an originally unidimensional approach to borders restricted to economic barriers which had to be eliminated within the EEC and it was then enlarged

to a general vision of an idealized "borderless Europe" without specifying what this really meant. It therefore created two wrong impressions among the European public opinion: first, that all borders in the EEC were economic and second that all borders had a negative function and therefore had to be abolished.

This unidimensional approach on borders was also followed by many researchers on European integration, especially in the field of Contemporary History. Until the end of the 1980s, their approach to European integration did not consider borders as a decisive element in the European integration process and it was only in 1989, when René Girault, one of the founders of the liaison group of historians with the European Commission, initiated a program on European identities which set up one working group on borders in Europe (Girault, 1994). For most part, indeed, historians on European integration dealt with borders in terms of their negative function as barriers to trade (Wassenberg, 2019, 52-54). Only researchers on cross-border cooperation in Europe considered borders in a more differentiated way, as multi-dimensional, with both positive and negative functions. For them, the positive function of the border was first related to the geographical concept of the natural border, which border regions were often directly confronted with. Thus, rivers, mountains and seas frequently delimitate cross-border spaces and have a positive function as elements of nature (Lapradelle, 1928, 175). Another type of a positive border is the normative border which derives from the sociological perception of borders as cultural markers (by means of cultural habits, languages, *etc.*) (Simmel, 1903, 27). The border serves in this context as a means of differentiation and of cultural identification (Guichonnet and Raffestin, 1974, 7). But borders can also have a positive function of protection and it is this function which serves when national borders are summoned by national States as gatekeepers of security (Brunet-Jailly, 2018, 85-1003). The historiography of Border Studies in Europe has thus adopted a much more multidimensional and differentiated view of borders than that of European integration. (Wassenberg, 2020 b).

When looking more closely at the history of European integration and moving away from a unidimensional view of borders, one realizes that many borders in the EU have not disappeared and that some borders are even expressly meant to be kept intact because of their positive function. This counts first and above all for the cultural borders in the EU. The European Treaties have specified from the start the principle of "a unity in diversity" putting an emphasis on cultural plurality in terms of different languages, habits, as well as national

and regional patrimony as one of the main assets of the European Community. This can be observed as from 1952, when it was decided, that all languages of the Member States of the ECSC would become official working languages, a principle which has been maintained until today, as prove the 24 official languages recognized by the EU (Vilma, 2012, 37-57). Second, at no time in the history of European integration, have the political borders of the EU Member States disappeared. The EU is an organization with certain state competencies, but it has not become a Federation, where National States have agreed to transfer sovereignty in core areas to the EU institutions. Therefore, the national States represented in the European Council maintain exclusive competences in many fields, especially regarding Foreign Affairs, defence issues and national security. The Schengen crisis has revealed this persistence of political borders because the EU Member States have shown that they are the gatekeepers of national security and that they have the competence to enforce border policies, and not the EU (Ceccorulli, 2019, 302-322). It was the bordering processes in 2015-2016 which led to an overall reminder of this function of national borders as a protection for the population against a potential external threat. In the context of European integration, this unravelled the "myth" of a "Europe without borders" which never really existed when it came to political borders. Thus, when at the internal and external borders of the EU, security issues became of crucial importance, the EU Member States were no longer interested in the border as a place of economic flow and exchange, where barriers have to be abolished, but rather as a line of protection where the control function prevails against threats to internal security (Brunet-Jailly, 2018). The Schengen crisis has therefore proven that the Westphalian border has stayed highly relevant from a security and geopolitical perspective. This holds true even if borders between EU Member States have lost some of their geopolitical relevance due to European integration, mobility and transnational interactions (Spindler, 2018, 201-219). It does not mean that there is no longer an ideal of a "Europe without borders" in terms of the principle of free circulation, but it may lead to the realization that this principle may need restrictions and adaptations at certain times and in exceptional circumstances.

But unravelling the "myth" of a "Europe without borders" also means adopting a generally more differentiated approach to the role of borders in European integration. Such an approach already exists on the regional level of integration. When looking at the historical development of cross-border cooperation in Europe, it clearly appears that a consciousness of the persistence of the "border" in its different forms (cultural, economic,

social, political, administrative, etc.) and functions (negative, as a barrier to exchange and positive as a means of protection) has always existed (Lambertz, Ramakers, 2013, 61-73). The objective in these areas was therefore not to abolish borders, but to overcome them as "a scar of history" by converting them from a line of separation into a place of cooperation (Mozer, 1973, 14). The denomination "cross-border cooperation" in comparison to "European integration" already reveals the fact that, in border regions, stakeholders do not ignore the existence of borders, but they act in order to cooperation "across them" (Ratti, Reichman, 1993, 241). From the 1990s, with the introduction of the Interreg program by the European Commission, this multidimensional view of borders was fading, as cross-border cooperation was increasingly put forward as a tool in order to implement the EU's ideal of a "Europe without borders" (Reitel *et al.*, 2018, 7-25). Indeed, border regions were then often identified as "models for European integration", especially those with a long experience in cross-border cooperation, as, for example, the Greater Region (Saar-Lor-Lux) or the Franco-German-Swiss Upper Rhine Region (Beck, 2014, 37-40).

However, the re-bordering processes after the Schengen crisis only reaffirmed the persistence of the border in these border regions: the "separation" function of the border was being reinforced again (Evrard *et al.*, 2018). What used to be "models of integration" were now places where "the border comes back in Europe", as images of the imposed border controls in 2016 in well integrated cross-border spaces such as the Danish-Swedish Oresund Region or the Strasbourg-Kehl/Ortenau Eurodistrict illustrated. Following the Schengen crisis, cross-border regions were therefore now denounced as "models for European dis-integration" or a proof for the failure of the ideal of a "Europe without borders." But this again was not taking into account the multiple forms and functions of borders in the EU. Indeed, the Schengen crisis rather illustrated the end of the "myth" of a "Europe without borders" by showing that many borders – especially political and administrative ones – had never in fact disappeared (Wassenberg, 2018, 25-59).

Finally, the greater the awareness regarding the persistence of borders in EU, the more the perception of the role of borders in European integration changed. Thus, the Schengen crisis revealed internal and external problems of border management facing threats of terrorism and uncontrolled inflows of refugees (Colombeau, 2017, 480-493). It put an emphasis on the fact that border management was not an EU competence, but a national one and that Member States of the EU could individually decide

on measures to impose new modalities of border checks. This national re-bordering was the best indicator for the constructed "myth" of a Europe without borders" which did not specify which type of borders were abolished by whom, under which conditions and for how long. The ideal of a "Europe without borders" in terms of economic free circulation of good, people, services and capital stayed a reality, but a generalized "Europe without borders" in terms of a politically integrated borderless Europe, or put differently, as a European Federation, did not and does not exist.

Conclusion

The Schengen crisis in 2015 which resulted in a reaction of re-bordering by several EU Member States has been used by the opponents of European integration to announce the end of a "Europe without borders". However, when analysing the consequences of this crisis, one comes to an almost paradoxical conclusion.

On the one hand, the re-introduction of border controls has definitely not put an end to a borderless Europe if interpreted in terms of the four fundamental freedoms of circulation enshrined in the Single European Act. The free circulation of capital, services and goods has therefore not been interrupted. Mobile spaces in terms of cross-border communication flows and networks continued to exist, and even when looking at the free movement of people, the temporary suspension of the Schengen Convention was authorized if it did not exceed a period of six month foreseen by the Schengen Code. Furthermore, the checks at the border only signified a delay and not a disruption of the possibility to cross the border and, under the pressure of border regions with a high proportion of cross-border workers, they were for the most part more or less rapidly abandoned.

On the other hand, the Schengen crisis has revealed the end of a "myth" of a "Europe without borders" which has been constructed since the mid-1980s, under the influence of the European Parliament and the European Commission, which suggested that a "Europe without borders" actually also meant the abolition of political borders and the creation of a European Federation. The "myth" turned the ideal of a "Europe without borders" into the final objective of European integration and it became an end in itself. It has been built on a unidimensional concept of borders regarded as "negative" barriers only, a concept which ignored both their positive functions and the reality of existing borders in the EU. Indeed, except for a "Europe without borders" in terms of the four fundamental freedoms of circulation, most borders – *i.e.* political, administrative, cultural, *etc.*

– have not disappeared. Thus, "Europe without borders" as a generalized all-englobing phenomenon has never existed. And not only de-bordering but also re-bordering is a process that continues to exist within the EU.

The re-bordering process in the Schengen Area has shown that the EU Member States hold on to their national borders as gatekeepers of sovereignty and use their competencies in border policies in order to protect their population from external threats. This proves that borders cannot only be regarded in the process of European integration unilaterally as economic barriers to be removed, but that they can also assume positive functions of protection which justify the return of border controls. Unravelling the "myth" of a "Europe without borders" means recognizing the complex multidimensional character of borders, and it also means to return to the original ideal of a "Europe without borders" as one of free circulation, which is one means towards European integration among others.

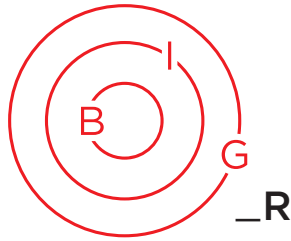
Whereas this more differentiated perception of borders helps to explain the re-introduction of border checks following the Schengen crisis of 2015, it appears to be even more essential to understand the drastic bordering measures during the COVID-19 pandemic. The "myth" of a Europe without borders has crumbled more sharply, as it has reminded us that the EU is not a Federation, as the competence of border management lies with the Member States and not with the EU institutions. Each EU Member State has used bordering policies unilaterally by using different articles of the Schengen Convention. This led within two months, between March and May 2020, to an almost hermetic closure of nearly all borders within the Schengen Area, this time not only slowing down cross-border flows of people, but impeding them totally. And after the peak of the pandemic, each EU Member State again decided more or less unilaterally on the modalities of how and when to reopen its borders, creating the paradoxical situation that, at certain times, some EU borders were open in one direction but closed in the other.

This proves that the question to ask is not so much whether the EU should still pursue its ideal of a "Europe without borders" but rather who has the competence of border management and if this competence is situated at the right governance level. For, if one seeks further European integration, then one could consider creating coordination or even place the main authority of border control on the EU rather than on national State level. Without creating a new myth of a "Europe without borders", this could help to ensure better crisis management and a more efficient functioning of the Schengen Convention and its exception rules for re-bordering.

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ARTICLE

Refugees and the Dublin Convention: A Biographical Evaluation of Inner European Borders

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The Dublin Convention defines which EU State is responsible for the asylum application of third country nationals or stateless persons. According to this Convention, the first Member State in which an asylum seeker enters is responsible for the person's asylum procedure. It thereby stands in gross contrast to the freedom of mobility of EU-citizens within Europe. While extensive research has focused on the attempts to build up a Common European Asylum System, mostly taking up an institutional perspective, only limited sociological research has concentrated on the perspective of refugees and on the way they are affected by the Dublin Regulation and react to it. This article explores the biographical impacts of the Dublin Convention and the reaction of concerned individuals to it through the method of biographical policy evaluation. It bases on 29 biographical interviews conducted with refugees affected by the Dublin Regulation in France. It provides an in-depth analysis of three key biographical moments regarding the Dublin Convention: the arrival in France, the process of integration and moments when refugees change the European State they live in after having sought for asylum. It shows that beyond the (intended) impact on the "choice" of the country of arrival, the Dublin Convention often impacts refugees' integration processes in a long-lasting way.

Introduction

The Dublin Convention, signed in 1990 and implemented in 1997, establishes the principle that only one European State is responsible for examining an asylum application and that in most cases, this consists of the State in which a refugee¹ first arrived in Europe.² The Dublin States comprise slightly different States than the Schengen space and the EU territory. They consist of all EU States as well as Norway, Iceland, Switzerland and Liechtenstein.

The Dublin Convention is predominantly an instrument to control immigration and the movement of refugees. It reflects the ambiguous European positioning towards free movement (Wihtol de Wenden 2011). While one of the biggest achievements of the European Union has been to establish free movement throughout its territory for EU citizens, a process was simultaneously put in place to "protect" Europe's external borders that

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ultimately led to the creation of "fortress Europe" (Carr 2012). This process has rendered entering the EU increasingly difficult for non-European citizens. Refugees thus face two main restrictions in their freedom of movement once entering the EU: first, while entering Europe in itself and second, due to the Dublin Convention, while (trying) to cross inner European borders.

Since its adoption, the Dublin Convention has been the object of harsh criticism, mostly concerning its endemic malfunctioning. One of its systemic failures lies in the strong imbalance it reinforces between European countries by putting the majority of the responsibility on the countries in which refugees first arrive, *i.e.* mainly Italy and Greece (Valenta *et al.* 2019). Furthermore, Dublin States *de facto* rarely transfer asylum seekers back to the responsible State. On the European level, inner-European deportations average ten percent. Some critics also point out that the Convention does not take into account the personal motivation of an asylum-seeking person as to which country she/he would like to live in (Barbou des Places 2004).

Over the past years, extensive research has been conducted on the Dublin Convention and its contribution to a Common European Asylum policy. Existing works mostly focus on the legal development of the Convention and its implementation (for example Hurwitz 1999, Mitsilegas 2014, Cetail *et al.* 2016), and thereby reflect an institutional perspective or the point of view of policy makers. Even though the motivation and agency of refugees is often evoked in public debates as a central point that needs to be taken into account more strongly in asylum politics, sociological research that departs from the experience of concerned migrants still remains rare (see for example the works of Schuster 2011, Brekke and Brochmann 2015). Furthermore, the existing scientific literature that takes up this perspective focusses on the process of *arrival* of refugees in the European State they file their asylum application in – and not on the long-term effects of the Dublin Convention on the biography and process of *integration* of concerned migrants in their host country.

Our article breaks with the dominant perspective and analyses the way refugees are affected by the Dublin Convention and resist it by taking up the perspective of concerned individuals. Adopting a biographical perspective, it explores the ways the Dublin Convention affects the life courses of refugees and how they react to this Convention during three main temporal phases in the process of migration: the moment of settlement in a European State, the mid- and long-term impact of the Convention on the integration of refugees in their host country and the moment when refugees

might change the European State they live in – even after having sought for asylum. We thereby connect the question of inner European borders in the field of asylum to the issue of mid- and long-term integration of refugees in Europe, a connexion that has rarely been addressed in migration research. We focus on the experience of refugees who live in France, who in numerous cases have reached the country via Italy or Germany and who are therefore directly concerned by the Dublin Convention.

This article adopts the method of biographical policy evaluation, which was developed by Ursula Apitzsch, Lena Inowlocki and Maria Kontos (2008) and Catherine Delcroix (2013). Inspired by Grounded Theory (Glaser and Strauss 1967),³ it operates bottom-up rather than top-down, taking biographical interviews and ethnographic observations as a starting point to evaluate policy impact.⁴ It is therefore particularly appropriate to put into effect the change of perspective mentioned above, by empirically evaluating the concrete effects that policies have on the biographies of individuals who have experienced them. This approach discloses how different policy fields (immigration policies, entry regulations to national countries, access to the asylum procedure, policies in the fields of housing, education, *etc.*) are knitted together in a life path, rather than considering them as separate entities. Life narratives are also especially valuable to learn more about the courses of action developed by migrants and the strategies they employ in order to adapt to (or resist) given policies.

This article draws on a corpus of 41 interviews from the Migreval database.⁵ The corpus selected consists of life stories of 29 refugees who have been concerned by the Dublin Convention in the sense that they transited through a Dublin State before arriving in France. These interviews were crossed with 12 semi-structured interviews with social workers, lawyers and politicians in Eastern France, which gave us insights into the local institutional contexts of refugee policy.⁶

Eighteen of the interviewed refugees are men, eleven are women and they were aged from 19 to 57 years old at the time of the interview. All live in Grandville,⁷ a city in Eastern France. Fourteen of the interviewees came to France with further family members: their uncle, aunt, spouse and/or children, while the others migrated alone. The interviewees come from Afghanistan, Albania, Azerbaijan, Iraq, Kosovo, Nigeria, Russia (Chechenia), Serbia, Sudan, Syria, Chad, and Turkey. Only very few of them arrived directly via the Mediterranean Sea, most of our interview partners transited through different European countries before settling in France, for example through Germany or Italy. While some only spent several days in these countries during their

journey, others spent several months, in some cases even several years in different European countries. During the analysis, we crossed and compared these interviews. Several tendencies and strategies became apparent, which we will present in this article along five case studies that reflect phenomena that have been recurrent throughout our entire material. Beside the different types of experiences the presented cases illustrate, our selection also enables us to gain insights into experiences of refugees who travel alone or with their partner and children. The selected case studies illustrate recurrent patterns of how the Dublin Convention affects three important moments in the refugees' life courses.

The first part of our article discusses the way refugees arrive at their place of destination, here Grandville. It shows the agency of migrants in this process, but also how different constraints shape and sometimes hinder their initial choice. The second part analyses the impact of the Dublin Convention on the refugees' life *after* settlement in France and highlights resources and obstacles in their process of integration. The third part finally analyses the situation of refugees who have *de facto* sought asylum in different European countries – precisely what the Dublin Convention aims to avoid – and discusses migrants' reasons to do so.

1. Processes of choosing France as a country of settlement – Between agency and constraints

While the Dublin Convention stipulates that refugees must remain in the country they first arrive in, only few of our interview partners directly fled from their country of origin to Grandville. Most often, when people escape from violence in emergency, the logic of "leaving a place" dominates over knowing where to ultimately go, at least at the beginning. The decision to go to a particular (European) country is then slowly constructed during the flight, sometimes after having already spent several months in France.⁸ In this process of "choosing" a country of destination, different factors interact in different ways, and knowing about the Dublin Convention and its application in France is one of them.

When a refugee arrives in France and wants to seek asylum, the prefecture first examines if no other Dublin State is responsible for her/his asylum procedure. It does so by checking if the concerned person's fingerprints have been seized in another Dublin State and put in the common Eurodac system or if there is any other evidence that she/he has already been in another European country. If this is not the case, the person can immediately file an asylum application. If it can be proven that the refugee has already been in another European country, the prefecture contacts the responsible

Dublin-State. This State then has a timeframe of two months to react. If it doesn't, its silence is legally interpreted as its wish that the refugee returns there and a "decision of transfer" is communicated to the refugee. From that moment on, the French State has six months to execute the transfer. If the transfer doesn't take place within this period, the person can apply for asylum in France. However, if the person is considered to be uncooperative with the authorities (for example misses an appointment), she/he is considered to be "on the run", and the administration can extend the period of possible transfer from six up to eighteen months (Maillary 2018).

In the following, we use three exemplary cases to show how the logics of flight interact with the institutional logics of the Dublin Convention in the French context. We include case studies which show how individuals progressively change their flight plan along the way (the Rahman couple) and cases in which the decision to stay in France emerged at a very late point of the travel phase (Saddam). A contrastive third case study, the case of Daniel Demir, shows the impact of feeling forced to settle down in a country where one does not want to be. All three cases point at central factors and resources that finally determined the European State in which our interviewees filed their asylum application and that were recurrent throughout all our empirical data.

The importance of financial and linguistic resources – Saïd and Mona Rahman

Saïd and his wife Mona Rahman were born in Iraq respectively in 1988 and 1990. Saïd completed university studies in the technical field and worked in industry. Mona Rahman studied French literature. Her father had already studied French, a rarely studied language in the country. Their daughter Layla was born in 2013. In 2015, because of Iraq's political situation, they decided to flee to Europe. Saïd initially thought about settling down in Germany: firstly, because his specific professional field was largely represented there, and secondly because he could – as he had read and heard – carry on his profession there in English. After having left Iraq, Saïd, Mona and their small daughter first reached Turkey. From there, they crossed the Aegean Sea to Greece on inflatable boats. The family was lucky: the day it took the boat, the sea was calm, and they were able to land on a Greek island. From there, they reached Athens, where their fingerprints were taken. In Greece, a long journey through Europe began for the Rahman family and numerous other migrants who wanted to reach Western Europe. The family first crossed North Macedonia⁹ and thereby temporarily left the EU territory, as the country is not part of the European Union. There, they encountered migrants who had

to prematurely end their journey and remain in this country, due to financial reasons. Thanks to Saïd's well paid employment in Iraq, the family had been able to save a considerable amount of money for its flight. This was decisive, as it enabled them to continue their journey to Western Europe via the "Balkan route".¹⁰ Although during the summer of 2015, the formation of an "informal corridor" intended to facilitate transit, crossing national inner EU borders proved to be a great challenge. The concerned States, reluctant to allow transit, controlled border crossings in a unilateral manner. Thus, in some cases, borders had to be crossed on foot and at green borders, but in some cases bus transfers were also organised. Furthermore, corrupt police officers sometimes tried to profit from the migrants' situation. The Rahman family experienced such corruption and had to cross several borders by foot. Saïd described the national borders he and his family encountered as "icebergs" that were difficult to pass. Each time, he had to sound out the feasibility of border crossing. The family crossed North Macedonia, Serbia, Croatia, Hungary and Austria before reaching Germany as its provisional destination. The different national regulations introduced in the inner European border zones were particularly complex between 2015 and 2016 and partly changed within short periods of time, thereby greatly affecting the travel routes of refugees. Saïd Rahman described the difficulties of crossing several of these borders in detail. In his narration, he also recalled at length the way he and his wife chose and self-determined their final country of settlement. After the family's arrival in Germany, against Saïd's initial wish, the Rahman couple decided not to stay in Germany:

We decided to leave, because we saw that Germany is a good country, but it was not the right moment. We didn't arrive at the right moment. (...) Germany was my dream, but it wasn't the right moment. I saw that there were many people there. I said "We don't know. We don't know what will happen. Perhaps the extreme right will win." Because it's too much. One million and a half, that's too much.

Here, contrary to the widespread idea that the presence of compatriots is an important factor for choosing to settle down in a specific country, Saïd and Mona precisely decided not to live in Germany because of the high number of Syrians and other migrants there. They feared the political consequences that could emerge out of a high acceptance of refugees – the rise of the extreme right. They also believed that this high number of migrants could diminish their chances of integration. Searching for a context in which they would form a minority group turned out to be a strategy chosen by several of our interviewees. Furthermore, for the Rahman family, the question of language was

determinant (again) for their choice of country of settlement. As Mona spoke fluent French, they decided to apply for asylum in a French-speaking country. They thought of going to Belgium, Switzerland, Luxembourg, or France. During this phase of decision taking, Saïd and Mona relied on different opinions expressed by their contacts on Facebook as well as on their own research via internet on their cell phone. They also searched for information on the different national asylum systems within the EU.

They finally opted for France – against the advice of their relatives who lived in Sweden and of migrants from Northern Africa they met in Southern Germany, who warned them that in France, only few accommodation centers for asylum seekers existed and that, much more than other European countries, migrants were forced to speak the local language (in this case French) right from the start. Once their choice was made, Saïd and Mona were determined to reach France. They chose not to travel by train, even though this would have been the most comfortable solution, especially for their daughter, who had been hospitalized in Germany after exhaustion from their journey. They feared that they could be controlled by the police in the train and that their fingerprints would be taken, thereby forcing them, along the Dublin Convention, to stay in Germany. An interview excerpt shows that a police control – linked to a new seizure of their fingerprints – could according to Saïd and Mona have a long-lasting impact on their lives:

Saïd: We couldn't take a train, because if the police sees us, they would take our fingerprints.

Mona: Then we would have to stay.

Saïd: We would have to stay there all our life.

Saïd and his family finally travelled to Paris by bus. Following the advice of migrants they met there, they continued their journey to a city in Northern France. There, they encountered significant difficulties obtaining information on how to apply for asylum. Through the help of an association, they came in contact with an elderly couple nearby who offered to host them for some time. Saïd and Mona registered as asylum seekers there. Although they had left their fingerprints in Greece, they could directly apply for asylum, which is, according to Saïd, linked to the fact that their fingerprints did not enter the Eurodac system.¹¹ While living in Northern France, Saïd applied for a language course in Eastern France he found in the internet and was accepted. The elderly couple they stayed with helped them find another host family in this region and drove them to Grandville, where Saïd, Mona and Layla arrived in 2015.

Friendships on journeys and crossing the Italian-French border – Saddam Khalid

Saddam Khalid was born in Sudan in 1991. He graduated from high school in 2010. Because of the political situation in the country, he couldn't go to university as he had initially planned. After his village was burned, his mother fled to the southern part of Sudan. His father lived in a refugee camp nearby the village. One of his older brothers fled to England. In 2014, because of security reasons, Saddam decided to leave the country as well. During the following two years, he crossed Egypt and Libya. Saddam hadn't initially planned to leave the African continent. However, in the midst of the very difficult Libyan political situation, he decided to flee to Europe.

A Chadian friend he had met in Libya decided to go with him. A smuggler offered to help them cross the Mediterranean Sea. Saddam didn't have the necessary amount of money, but his Chadian friend did and offered to pay for the two of them. He argued that this money might get stolen from him if he didn't spend it right away. After having been rescued at sea by a ship, the two young men finally arrived in Sicily.

They pursued their journey with other migrants to Milan, where they stayed in a camp. There, some refugees who had arrived before them asked them whether or not they wanted to stay in Italy and told them about the system of digital fingerprints. This was the first time Saddam heard about the Dublin Convention. He didn't know yet whether or not he wanted to stay in Italy:

Actually, we, I asked the people who had arrived there before us. One person said "Do you want to leave or stay in Italy?" I said "I don't know. I don't know if I stay in Italy or if I leave". I just wanted a place to be in.

The next day, responsible persons in the camp took their fingerprints. Saddam's Chadian friend told him that he wanted to go to France, mainly because he spoke French. Saddam decided to stay with him. Here, the importance of developing friendships and forming a group along the journey within Europe became apparent:

There I said to him: "Well, we arrived here together, we can't split at the beginning, because life isn't easy, because we aren't in Africa, we are in Europe. It's not like at home here".

Saddam and his friend took a train to an Italian city near the French border. About 500 other migrants were there, who all wanted to cross the border.

Severe police control was put in place however to hinder non-EU migrants from entering France. At the same time, numerous French associations were present on site, who informed Saddam and his friends about the living conditions in both countries. In contrast, no Italian associations were present in this border zone:

In [name of the Italian city], there were many people, almost 500 or 600. (...) In the morning, associations came from France. But there were no Italian associations. There wasn't anything. All the associations there were from France. We talked to them, because there were people who spoke English. I talked to them. They explained the situation in Italy. It's very difficult, because there is no housing, there is nothing. If someone applies for asylum in Italy, there is nothing.

Saddam, his friend and other migrants tried to cross the border about ten times the following days by crossing the train tunnel. Each time, they were caught by the police and sent back to Italy. Saddam called his brother in England who sent him 500 euros. A smuggler offered to help them cross the border by car. Saddam used his money to cross the border with his Chadian friend and two further Sudanese migrants they had met on site.

There were five tunnels which we crossed. There was no light, there was nothing, we couldn't see anything. We passed up to the border, but the police was there. They stopped us. There were some people who passed, they arrested others. They took us back to the border. There were Italians and French. But the French took us to the Italians. Then the Italians said "You have to go to [name of a city in Italy]". We walked four hours back to the train station. If the police made you go back, you couldn't be back for lunch. Because the associations that would come had already left. We walked for four hours and we found nothing. We stayed until midnight when the association came back for dinner. We ate. Then, at midnight, we tried again. During ten days, we tried. Each time, we came back. And then, we decided, when my brother sent money, we decided to take a car. We went to [a city in France].

Once in France, following the advice of the smuggler, they took a bus to reach a further inland city in Southern France so that they wouldn't be deported back to Italy. A Sudanese friend of Saddam there hosted them before they continued their journey to Paris by train. In Paris, they stayed in an informal migrant camp at the metro stop La Chapelle for one week. From there, following the advice of other migrants, they went to the refugee camp of

Calais.¹² There, they found large information panels, associations, and employees of the French Office of Immigration and Integration (OFII)¹³ who counselled migrants on how to enter the asylum system in France and who offered housing to those who wished to apply for asylum in France.

While a number of migrants in Calais aimed to go to England, Saddam was still undecided on where he would like to stay. Even though it would have been easier for him to go to England for language reasons, he decided to stay in France. Different reasons explain this choice: the wish to stay with his Chadian friend, who himself spoke French, the help he experienced from French associations in Italy and again in Calais, and the fact that by staying in France, he would belong to a minority group and benefit from that. In Calais, for example, he attended French language courses offered by volunteers that had only very few participants, compared to the very crowded English classes. Furthermore, pursuing his journey to England or to another European country implied taking new risks. Several of our interviewees explained that despite their initial wish to leave France for England, one reason why they did not do so was because of the state of exhaustion they were in and the life-threatening risks they would take by crossing – again – a sea. Finally, the perspective of getting an accommodation by OFII was decisive in Saddam's decision to stay in France, especially taking into account the disastrous housing situation for asylum seekers he had heard of in Italy. When an officer of the OFII in the camp of Calais offered Saddam a bus ticket to Grandville a few weeks after his arrival, he accepted, and arrived in a housing centre for refugees in this city in 2016.

The paradoxical obstacle of having a valid visa – Daniel Demir

Daniel Demir was born in Turkey in 1990. He already became politically engaged in left-wing organizations in high school and during his university studies. His educational path was repeatedly interrupted, as he was regularly sanctioned by the State for his political activities, and even sent to prison. Shortly after having finished his bachelor's degree, he was sentenced to a new incarceration and decided to immediately flee from Turkey. In his past, Daniel had extensively travelled to different European and American countries. At the time of his flight, he still had a valid tourism visa for France.

Luckily, I had a visa, still a valid visa. So, I came to Germany first. Actually, my aim was to go to Germany, not to France, but I didn't know the details of the Dublin agreements, so I arrived in Germany first, made some interviews with some lawyers and they said "You have to go

to France, because you have a valid visa from France". So unfortunately, I came to France then. I waited for a solution for a while, because I still had the hope to go to Germany or somewhere else, but people said "France will be best for you, because otherwise, your process will be longer and longer and probably, they will send you back to France". So, I chose a place in France.

Contrary to the Dublin Convention, which greatly limits the mobility of refugees within Europe, *tourism* visas are valid within the entire Schengen space. Daniel initially wished to apply for asylum in Germany, which is why he decided to arrive in this country by plane with his valid tourism visa for France. Article 2 of the Dublin Convention however specifies that if an asylum seeker possesses a valid visa for a EU country, she/he has to apply for asylum there, even if this is not the country of entrance into the EU. Daniel initially wasn't aware of this. The lawyers he consulted saw little chance that he would be able to circumvent the Dublin Convention. He therefore followed their advice and went to France – against his will.

At the time Daniel received his sentence in Turkey, he had just successfully applied for a master's programme in an Eastern European State. One of his motivations for this project consisted in the fact that his great grand-parents originally came from Eastern Europe. He still needed to apply for a student visa for this country. Because of the emergency he was in at the moment he received his sentence, he was not able to wait for the completion of his visa demand, which ultimately led him to lose the chance he had had to study there. Daniel Demir's situation shows that *time* is an essential factor in the choice of the country of settlement. Because of time pressure, he could not set in place a strategy to live in the countries he would have liked to live in: an Eastern European country and Germany, which hindered him from pursuing his life plan.

Choosing one's country of destination is a process. The three case studies presented show how different factors come into play to different degrees and at different moments. Thus, language skills and groups of solidarity play an important role throughout the flight process, as the Rahmans' and Saddam's examples show. Financial resources, physical exhaustion and risk evaluation determine the rhythm and duration of the flight. The decision to settle in a certain country is often shaped once people already have arrived to (Western) Europe or have already spent some time in a specific country which was first meant to be a transitory one. Besides language skills, decisive factors here are actors of associations, civil society or programs offered by national authorities – all aspects that

were interpreted by the refugees we interviewed as signs of promising possibilities of integration and future prospects in their country of arrival. Beyond these factors, our interview partners had to take into account the possible consequences of the Dublin Convention from the very moment they learned of its existence. Paradoxically, the only case we encountered who entered the Dublin space in a legal way saw precisely his visa as a constraint for his future plans. The Dublin Convention also extends the phase of "illegal" border crossings beyond the already life-threatening entry into the European Union. The depicted cases vividly show the risk-taking the Dublin Convention requires of migrants: crossing the Italian-French border or the French-British border each time implied life-threatening risks for the concerned migrants. Our analysis revealed that the pressure under which the Dublin procedure puts migrants does not only constrain their mobility, but also their process of integration, as we will see in the following part.

2. The impact of the Dublin procedure on the integration process in France

While the core purpose of the Dublin Convention concerns the regulation of refugees' arrival and determines which European State is responsible for their asylum procedure, our interview material shows that the Convention also shapes refugees' experiences during the first months, sometimes first years in France and thereby deeply affects their integration process. This effect is strengthened by the fact that especially in the French case, undergoing a Dublin procedure prior to filing an asylum application means extending a period which is linked to limited social rights. People in the Dublin procedure almost have identical benefits to those of asylum seekers and receive between 6.80 and 14.20 Euro a day per person (whether they have public accommodation or not). These benefits however can be stopped when the persons are declared "on the run". Furthermore, contrary to asylum seekers, refugees in the Dublin procedure can only benefit from certain types of accommodation. This is especially significant in the French context, where not every asylum seeker can assert his/her right to get a place in a public accommodation and where numerous asylum seekers remain homeless over months.

The impact of the Convention on the choice of the country of arrival and on the living conditions during the first months therefore shapes refugees' integration processes, which begin from the first day of settlement in the arrival country. Vincent Tiberj has shown how "[t]oday, social convention incorrectly restricts the use of the term 'integration' to groups of immigrants and their families" (Tiberj

2014). Along with this author, we depart from the idea that the success (or failure) of integration does not only depend on the individual him/herself, but also on the society in which she/he lives.

Our case studies revealed three different ways in which the Dublin Convention affects arrival experiences and integration processes of refugees. In some exceptional cases, such as the one of Saddam, the Dublin Regulation only had a slight impact on the further asylum seeking and integration process. In most cases, however, the Convention had a strong negative impact, either by delaying the process of integration (Ibrahim) or by creating a feeling of rejection towards a country of settlement one had not chosen (Daniel).

"Being lucky" – Saddam's local integration process in France

After Saddam arrived in Grandville, a social worker in his housing center took him to the local prefecture to transfer the asylum application he had opened in Calais. Because his fingerprints in Italy had been seized in the Eurodac system, Saddam was put in the Dublin procedure. While waiting for an answer from the prefecture, he attended French language courses offered by volunteers and registered in a sports club. Saddam actively sought an activity where he could meet French people. However, the ongoing Dublin procedure meant that he could be deported back to Italy. But he was "lucky", as he described. The Italian government did not reply to the demand of the prefecture. Because the French government did not deport Saddam back to Italy within the six statutory months, he was finally able to apply for asylum in France in 2017. Two weeks after the interview took place within the French process of asylum application, he was granted the status of refugee.

The constant fear of police controls and the impossibility of starting life – Ibrahim Khidir

The life course of Ibrahim Khidir, born in Sudan in 1992, is quite similar to the case of Saddam. Ibrahim's school career was interrupted by war just before his high school graduation. He left his village in 2014 and arrived in the camp of Calais in the summer of 2016 via Libya, the Mediterranean Sea and Italy. Like Saddam, he accepted an offer of accommodation for asylum seekers in Calais, which led him to Grandville. When he tried to apply for asylum at the prefecture, the Eurodac system showed that Ibrahim had reached France by crossing the Franco-Italian border. Therefore, he was placed in the Dublin procedure – which was a shock for him. He had imagined that arriving in Grandville would

mean being able to reconstruct his life after months of flight:

I arrived to seek asylum and to stay, maybe to live, to get into a normal life, I don't know, with people, to find work, maybe buy a piece of land, something to eat, to live – just a normal life, like everyone else. And when I arrived, I had a Dublin from Italy, and this was really a problem.

After an entire year of waiting, Ibrahim was allowed to file his asylum application. Six months later, in 2018, he was granted refugee protection at first instance.¹⁴

The existing scientific literature shows the difficulties that arise from this condemnation to *wait* during the asylum procedure, especially as the final result after this waiting time is uncertain (Kobelinsky 2010). The effect of a prolongation of the overall procedure through Dublin is even more significant in the French system, which is characterized by a quasi-total absence of State integration policy during the asylum procedure. During the first six months of their regular asylum procedure, migrants are prohibited from working. Afterwards, they can theoretically apply for a provisional work permit, but the social workers we interviewed consider getting this permit as unrealistic. Moreover, during the asylum procedure, the French State doesn't provide any public language courses, contrary to countries such as Germany, where some asylum seekers can start public language courses during the procedure. Being in a Dublin procedure therefore extends the period in which asylum seekers are excluded from institutional possibilities of participation in French society.

Furthermore, it was very difficult for several of our interviewees to understand the administrative situation they were in in France and to gain information on the Dublin procedure and the overall Dublin system. Ibrahim tried to obtain clarification on the procedure in his housing centre. He explains:

Because at least, you should explain to the people why they do that and why the government does the rest. You must wait all this time. One should be clear at least. But they aren't. We don't know what is going to happen. We are just people living there and I don't even know what's going to happen tomorrow. You don't know, if today, because if today, you don't have any money, you don't know what to do, you don't know anybody here, so it's there where you live that they should explain to you how it works, where we are, and what we can do afterwards and what we can't do.

Because of the structural overload of the French system for asylum seekers, numerous actors we interviewed described that they often do not

have the time to explain the very complex Dublin Convention to asylum seekers. One lawyer we interviewed for example mentioned that explaining this rule would take too much time considering all the other emergencies to discuss with the refugees. Some accommodation centres for asylum seekers in France have social workers who can take the time to explain the legal constraints in more detail. Ibrahim however lived in a more provisional accommodation centre, in which not much counselling could be offered.

As public language courses set up by the French State are only available once people are granted refugee status, some accommodation centres organize language courses in cooperation with associations or volunteers. This was not the case in the centre where Ibrahim lived in:

When we asked how it works, what they are doing, why we have been here already for one year doing nothing, why we don't learn the language, why there are no French lessons, if someone could not help us to learn the language, they said "we don't know".

The fact that Ibrahim couldn't attend a language course intensified his experience of "losing time", which he shares with many of our interviewees who experienced forced migration. Often times, their educational or employment biographies were abruptly interrupted – Ibrahim for example had to quit high school shortly before his graduation because of the war – and he hoped that he would be able to catch up this lost time. Being "stuck" in the Dublin procedure therefore meant delaying his plans of learning French and entering professional life.

Furthermore, being in a Dublin procedure for numerous of our interviewees meant living in permanent fear of being controlled by the police during the six or more statutory months of waiting and being deported back to their first country of arrival. When refugees in the Dublin procedure did find language courses offered by volunteers in associations, they attended these courses, but continuously feared to leave the house. This was Ibrahim's case, who found a French course organized by volunteers in the district of his second accommodation centre, where he had been transferred after some months. He recalled:

You can't even leave home, you might stay home, because you don't know anything outside. You are afraid that if you leave, you might meet the police, get in prison, that's things we have in mind.

Despite the restrictions experienced during the Dublin and the asylum procedures, Ibrahim inter-

prets his exile as a form of new life, and pursues his aim of finding a job and settling down in France. His case is thus representative of cases in which refugees succeed in maintaining a positive attitude despite the numerous obstacles encountered. However, in some cases, the constraints of the Dublin Convention can be experienced as being so heavy that they have negative consequences on integration processes in the mid- or long-term.

Stuck in France against one's will – Daniel Demir

As we showed before, Daniel Demir was not able to seek asylum in Germany. At the time of the interview, his asylum procedure in France had been lasting for over two and a half years. Daniel regretted his forced presence in France and felt restricted in his freedom of mobility and in his freedom to pursue his life plans because of the long duration of his asylum application:

They just didn't care about it, you know. It is like every day you are waiting. You are making plans for your life. Big plans like, I will start school somewhere or small plans, like I want to go on holidays. I want to start to work. And you can't do anything. And they are fucking your life, and they don't care. But if you ask, then they will say that you are a bad example, so many fleeing from war, they are waiting for ages. (...) Cases like mine don't happen in Germany. Everything works better there.

Living in a country he has not chosen strongly affects Daniel's motivation to participate in French society. He repeatedly expressed that he didn't like the French language. This according to him explains why he hasn't progressed faster in learning French:

And also, I don't know, the French culture, the French language, anything about French. I don't like it. I have been here before and I just don't like the behavior of people. I don't know how to describe it, you know. So, also the German language was much easier for me to learn. So that was what I thought three and half years ago. (...) Actually, I have a level of B1¹⁵, but basically, I can't speak, because for example, I first speak English with everyone. I don't know, maybe I can speak it, like I could try and generally, I can understand when people speak French, but it's too hard for me and when you don't like something, you can't do it. That's the problem.

Myriam Hachimi Alaoui, in her research on Algerian refugees in France and Canada, distinguished two types of experiences of exile: "endured exile", in

the sense of "feeling subjected to the events of life" and "shouldered exile", when refugees give a (new) meaning to life (Hachimi Alaoui 2007, 42-50). In order to avoid the Dublin procedure, Daniel sought asylum in a country where he had not wanted to be from the outset. He experienced his situation as "endured exile", and did not perceive local opportunities of integration (for example offered language courses) as a chance, but as a reminder that he had wanted to live in another European country.

The case analyses reveal the possible consequences of going through a Dublin procedure in the process of integration of refugees after arrival in France. In a few cases, such as in Saddam's case, the Dublin procedure only has a limited impact on the integration process, especially when the asylum procedure that follows is short. In most cases, however – as in the case of Ibrahim and Daniel – the Dublin procedure contributes to a substantial prolongation of the waiting period already induced by the asylum procedure. This phase is characterized by the fact that the stay in France is experienced as uncertain and even unsafe. The constant threat of deportation leads to a permanent fear of the police. The possibilities to plan for the future are bound to administrative decisions on which our interview partners have no influence. Ibrahim and Daniel had different experiences. In Ibrahim's case, the prolonged exclusion from institutional possibilities of participation because of the Dublin Convention postpones the moment from which he can really start constructing his future in France, a future he aims to construct. In Daniel's case, the experience of being stuck *in limbo* is linked more to his experience of being stuck in France against his will, and of being reluctant to plan a future there.

3. Changing country after filing asylum procedure – Impacts of racist attacks and family reunification

Beyond the impact of the Dublin Convention on the arrival and integration experiences of our interviewees, our empirical material revealed two further phenomena in refugees' experiences which can be linked – at least indirectly – to the Convention, as they highlight refugees' aspiration to inner European mobility. While in most cases, our interview partners stayed, at least in the medium term, in the European country in which they ultimately applied for asylum, some of our interviewees changed the EU country after having completed their asylum procedure. This occurred after a negative, but sometimes also after a positive decision. Experiences of racism (the Cela family) and conditions for realizing family reunification (the case of some Syrian refugees) were the most important motives for this, as we will see in the next empirical cases.

The Cela family

The Cela family, composed of Mrs. Cela, Mr. Cela and their two children, left Kosovo in 2014 after having experienced human trafficking by mafia groups. They first arrived in Germany where they stayed some time and applied for asylum. After their asylum application was rejected (Kosovo is considered to be a safe country), they left for Finland in 2015 where they joined family members and friends who had settled there. They lived there for two years. There, their asylum procedure was also rejected. They furthermore experienced racist and Islamophobic attacks. Mrs. Cela recalls:

It is important to say that our integration in Finland as Muslims was very difficult. Numerous graffiti were inscribed on the walls of our neighborhood that insulted Muslims. Several attacks on mosques and anti-Muslim demonstrations took place during our stay. In 2015, when we were in [name of a city in Finland], a Molotov cocktail was thrown on our apartment and fire started. My children and my husband were there. We got very scared.

After their asylum procedure was rejected, and following the Islamophobic attacks, the Cela family decided to leave Finland and go to France, where they again applied for asylum. This case shows that despite the Dublin Regulation, asylum seekers still apply for asylum in different Dublin States when the danger they have experienced in their country of origin is not recognized by the administrations.

Since a judgment of the European Court for Human Rights in 2011, a principle has been established according to which refugees concerned by the Dublin procedure cannot be deported back to their first country of arrival if the asylum system of the latter is considered to be systemically deficient, or if it is considered to present a risk of serious human rights violations. Up to now, this regulation has been applied to Greece, for example. The case of the Cela family questions common assumptions about which European States are "problematic" for asylum seekers and which are not. While European law has integrated the idea that some specific Member States may present risks, the danger of experiencing racist attacks in any of the EU countries isn't taken into account on any level, neither by the EU nor by the nation States. Furthermore, the evaluation of the Cela family on which European State presents dangers – here a Nordic country – differs from the European legislation that has up to now mostly considered these States as safe.

Family reunification as a reason for trying to change one's Dublin State after settlement

A further reason why some refugees might decide to change State after having already sought asylum is the possibility of family reunification. Asylum procedures and the rights of recognized refugees greatly vary from one European State to another. While in France, persons who are granted the full status of refugee as well as persons who obtain the subsidiary protection have the right to family reunification, in Germany, since 2016, family reunification is only possible for persons who have the full refugee status. We encountered cases of refugees who were granted the subsidiary protection in Germany and who had their family members – wives and children for example – join them through irregular migration via the Balkan route or the Mediterranean Sea because of the impossibility of legal family reunification – with all the risks such a journey comprises. Some refugees, precisely in order to avoid this, moved from Germany to France to achieve their goal of family reunification.

Conclusion

In this article, we have analyzed the way refugees cope with and resist the Dublin Convention by recurring to the method of biographical evaluation. Departing from biographical interviews with 29 refugees living in France, we analyzed three key moments in their life path after arriving in Europe: the phase during which they choose the country in which they apply for asylum (or the phase during which the public authorities define this country), the phase during which they start integrating in their country of settlement, and finally the phase when, despite the Dublin Regulation, refugees sometimes change the European country they live in after having already sought asylum there. Our analysis highlighted that beyond its influence on the "choice" of the country of arrival as foreseen by the core of its regulation, the Dublin Convention has a strong impact that goes way beyond the moment of the first settlement in a European country. This article furthermore shows the great part of agency of migrants in these processes. Here, the Dublin legal frame stands in stark contrast to the individual plans and strategies of migrants who, often times, achieve the choice of where they settle down. At the same time, however, the legal constraints also hindered several of our interviewees from achieving their life plans. The process of choosing one's country of settlement also greatly depended on different factors such as language skills, money, exhaustion, risk-taking, time pressure or support encountered through civil society. Information on the Dublin system also proved to be central. While some of our interviewees were well informed on

the system long before their arrival in their final destination, others first heard of the existence of the Dublin Convention after entering Europe or even after applying for asylum. It was decisive for them to understand the Dublin Convention in as much detail as possible – however, because of the structural overload of numerous public services for asylum in Europe, it was difficult for them to encounter public actors who had the time and the legal skills to inform them in detail of the consequences of their choice. The Dublin Convention, as the interviews showed, affected the integration of refugees in several respects. It greatly lengthened the waiting time of the overall asylum procedure. In France, this means extending exclusion from institutional integration measures such as public French language courses or possibilities of training. Fearing to be caught by the police and to be deported back to their first Dublin State during the regulatory period of six months also led several of our interviewees to avoid leaving their apartment during this period of time. Living in a State which an individual has not chosen furthermore showed to give rise to inner resistance to getting integrated, and to learning the language of the host country. Severe experiences that greatly limit the vital needs of our interviewees – such as living in a safe environment or living with their nuclear family members – also led them to decide to leave the Dublin State in which they had already sought for asylum and to settle in another Dublin State. Here, the biographical experience of the families of which European countries were “safe” did not necessarily match with the definition of the Dublin Convention.

Because a high number of asylum seekers statistically ultimately stay in Europe, shaping their integration in the best possible way from the beginning is particularly important for European societies on the long-term. The biographical interviews we have collected show how closely the politics of immigration – here the Dublin Convention – are linked to the process of integration of refugees and their families. Making conditions of arrival and integration fit more smoothly seems all the more important as these refugees, who have gathered very specific knowledge on Europe and inner European borders for extra-Europeans are doomed, for a large part, to become, in the medium or long-term, full citizens of Europe.

Notes

- 1 We use the term “refugee” in a broad way, not referring to legal status, but to the more general experience of forced migration. A refugee who plans to seek asylum is a person who has fled but who has not necessarily already officially applied for asylum – in contrast to asylum seekers.

- 2 There are some exceptions in the application of this first-State regulation in the Dublin space. It does not apply to minors, to individuals who have nuclear family members in a specific European State or to persons who have a valid visa in another European State than the one they have arrived in (Barbou des Places 2004).
- 3 Contrary to hypothetico-deductive studies that verify or falsify hypotheses that are elaborated prior collecting empirical data, Grounded Theory elaborates sociological analyses and theory by departing, in an inductive way, from the empirical material collected. It is therefore particularly suited for shedding light on perspectives that often remain absent from main discourses, such as in our study the perspective of refugees themselves.
- 4 The biographical approach was developed in the Chicago School in the 1910s by William Isaac Thomas and Florian Znaniecki (1918-1920) and was reintroduced in Western Europe in the late 1960s and early 1970s (Bertaux 2016, Schütze 2014, Delcroix 2019). It analyzes the way social and individual phenomena are interconnected: on the one hand, how social structures shape individuals' lives, and on the other hand, how individuals contribute to (re) shaping social structures. In a much stronger way than questionnaires or semi-directed interviews, biographical narratives encourage interviewees to freely recall their life course experiences along their own subjective point of view. Biographical interviews give a diachronic perspective into individual action and social processes, showing the development of social dynamics over time. They are particularly relevant in migration research, as they enable connecting experiences gathered in one's home and host country (Delcroix and Pape 2010, Pape 2020). Biographical interviews are often completed by ethnographic observations, in which diachronic insights are crossed with the observation of concrete actions in a synchronic perspective (Bertaux 2016). The method of biographical policy evaluation focusses on the experience of specific policies on the individual and family level. While collecting the biographical interviews discussed in this article, we proceeded in two phases. In a first phase, we invited our interviewees to freely tell their life story. In a second phase, we asked them more specifically about their experience in fields that are related to the Dublin Convention and different social policies in France: their asylum application, housing, learning of the French language, education, access to the labor field, access to information about one's rights, access to French citizenship, support in childcare, etc.
- 5 The Migreval database is a qualitative databank that was created in 2015 at the University of Strasbourg in cooperation with the Goethe University in Frankfurt am Main. It gathers biographical interviews with migrants who have arrived in France and Germany from the 1950s to today as well as semi-structured interviews with professionals, politicians or members of civil society supporting migrants. These interviews are transcribed, reread and approved by the interviewees, then anonymized and pseudonymised (all identifying information being removed) and, lastly, added to the databank (in French, German and English). Because of the sensitivity of the material and of ethical issues that arise, the databank, of which there are essentially no other examples in France and Germany, is only accessible to a limited group of researchers, as defined

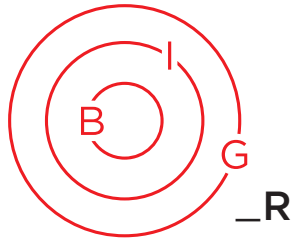
in cooperation with the University of Strasbourg. The interviews are collected by the participants of a Franco-German network currently comprising about 25 junior and senior researchers as well as Master 1 and Master 2 students in Strasbourg and Frankfurt. The interviews are conducted using a common interview guideline that focuses on the biographical experiences related to the arrival and integration of migrants in France and Germany. This article thereby grasps on material that was gathered on a collective basis (for more information on the project see <https://migreval.hypotheses.org/>).

- 6 These interviews were collected by Anja Bartel, Catherine Delcroix, Ariane Izere-Uwayo, Redi Muharemmi, Elise Pape and Ayse Yuksel.
- 7 Grandville is a pseudonym of a city in Eastern France. We also changed the names of all of our interview partners.
- 8 Although refugees are supposed to submit their asylum application in France no later than 90 days after entering the country, some of our interview partners had already spent considerably more time in France.
- 9 At the time, the country was named Macedonia.
- 10 Since spring 2015, the Balkan route had become one of the main routes into the European Union. In October 2015, the idea of a "corridor" was formalised with the aim of providing a safe but highly controlled route for refugees to Western Europe, especially to Germany and Austria. Therefore, transit camps, check points, systemic registration, first aid, special buses and trains were organized. National interests, however, repeatedly led to the closure of individual borders and to a shift of alternative routes for migrants. The idea of a corridor was officially ended in March 2016, after having been initiated by the closure of the Serbian-Hungarian border in September 2015 (Dujmovic and Sintès 2017).
- 11 Because of the numerous arrivals of migrants and the administrative work that means, countries such as Greece and Italy do not manage to take all fingerprints. Sometimes, administrations in these countries also don't take fingerprints as a protest against the uneven and unjust workshare between European countries that arises through the Dublin Convention.
- 12 Calais is a place where an aggregate of informal camps has been developing in France over the last decades, which provide accommodation for refugees who wish to travel to England or who have not yet managed to apply for asylum in France. While the French government initially tolerated the camp, by the summer of 2015 its population had risen to more than 8000 refugees and the government decided to dismantle it. During the preparation of the dismantling in October 2016, the French government sent State authorities to the camp to receive future asylum seekers in the French reception system.
- 13 Office de l'immigration et de l'intégration (OFII).
- 14 Most asylum procedures are much longer than Ibrahim's, so the Dublin Regulation adds considerable additional waiting to a procedure that in most cases lasts several years.
- 15 Basic level of French.

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ARTICLE

The Schengen Crisis and the EU's Internal and External Borders: A Step Backwards for Security-Oriented Migration Policy?

Frédérique Berrod *

The EU was founded on the project of "Europe without borders", which means elimination of internal borders between Member States according to Article 26 of the Treaty on the Functioning of the European Union. The counterpart of this objective has been the transfer of the controls to the external EU borders. In the Schengen area, external borders are controlled by common principles and procedures encompassed in the 2016 Schengen Borders Code. Member States have negotiated the Schengen agreement to maintain such external border controls, with the aim of protecting their citizens from various dangers and guaranteeing their national migration policies towards third-country nationals. Member States have therefore transposed the function of national border controls to the external EU borders. Cross-border cooperation within the EU has developed to reinforce the Schengen Space of free movement and has been jeopardized by the unorganized massive peak arrivals of migrants in 2015. This article analyses whether the 2015 Schengen crisis confirms the security-orientated approach or not, specifically as the crisis confronts the EU with national claims to recover the control of internal borders. It has been argued that this movement is proof of the resilience of Westphalian borders. This article is an attempt to show how European judicial power tried to limit such a national re-appropriation of borders, leading to a functional distinction between internal and external borders that may allow a departure from an exclusive security-orientated approach of external borders of the European Union towards a more cohesive approach to controls at EU external borders.

Introduction

Legal analyses of European integration generally underline that the DNA of the European Union is to eliminate national borders between Member States.¹ Such an objective seems to be contradicted by the 2015 Schengen crisis and is said to even have died with the COVID-19 crisis. The assumption of this paper is that the elimination of borders is still at stake between Member States of the European Union (EU) but such

borders must still be activated in times of crisis. This new approach is the result of the Schengen crisis and is based on a legal distinction between internal and external borders of the EU by the supranational EU institutions, namely the Court of Justice of the EU and the European Commission. It allows for a subsequent move in the orientation of EU asylum and migration policy to depart from a purely security-oriented approach.

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From a legal perspective, the 2015 Schengen crisis is characterized by the political decisions of certain Member States to take back systematic controls of migrants on their national borders. These Member States mainly claim to protect their public order and public security by avoiding secondary movements of migrants within the Schengen Space. Peter Thalmann concluded a recent study with these words: "by having internal border checks in place, Member States [showed] that the Westphalian nation-state as a guardian of essential state functions, thus, has never entirely been a thing of the past" (2019, 134).

This paper will take a slightly different view, drawing on 2019 case law and recent proposals of the European Commission on Asylum and Migration policy to prove that such a Westphalian conception of national borders remains partial and limited within the European Union. The Court of Justice of the EU has given landmark judgements in 2019 to protect the DNA of European integration and the content of the solidarity principle which is one of the legal foundations of EU asylum and migration policy.² One of the paradoxes of the 2015 Schengen crisis is also a constant attempt of the European Commission to disconnect asylum and migration policy from exclusive security perspectives and to propose a more integrative and cohesive approach.

These two movements will be interpreted in parallel to explain how the Schengen law has been transformed to develop a specific legal status of EU internal borders and a constant reinforcement of common controls on the EU external borders. The Schengen crisis has been the catalyst of a new narrative of EU borders which explains that internal borders cannot take on the traditional role of safeguarding the essential functions of nation-states on their territory in migration policy but play the role of a protective barrier in case of emergency or risk to national identity. The European Court of Justice (ECJ) is the watchdog of such a protection and has privileged cross-border cooperation instead of unilateral national actions.

After recalling how Schengen is historically rooted in a security-orientated approach based on the estrangement of migrants (part 1), the analysis will concentrate on the consequences of the 2015 Schengen crisis on internal borders of the EU and will show that the ECJ has tried to limit the national claims of re-appropriation of controls of migrants on national borders by different legal means (part 2). The analyses will then concentrate on the increasingly integrated management of external borders as a result of the crisis to reform the Schengen set of rules (part 3). Finally, a new narrative for EU borders will be examined as a solution to the Schengen crisis and a clearer acceptance of the necessity of borders for the sake of European integration (part 4).

1. An Historical Security-orientated Approach to EU External Borders

The management of external borders is not, from a legal perspective, the parallel tracing of EU internal borders. Internal borders are far from the Westphalian model of line of demarcation between sovereign States. EU law had the effect of devitalizing the protectionist function of internal borders but is evidently not devoted to the complete elimination of borders as political objects (1.1). The Schengen model has been drawn as a counterpart to the "elimination" of internal borders and play the role of traditional national borders as a place for control of persons trying to enter the European territory (1.2).

1.1 The constituent objective of the elimination of internal borders

It has been commonly asserted that borders do not exist anymore in the Schengen Area. What is correct is that the Schengen Borders Code has profoundly changed the controls at the EU borders: internal borders are spaces of free movements that should ensure "the absence of any controls on persons, whatever their nationality" (Article 77 of the Treaty on the Functioning of the European Union, hereafter TFEU). Internal border control can be organized by border police only to protect public order or public security in exceptional circumstances. External borders of the EU are maintained as spaces of differentiated controls for European citizens and third-country nationals, and the EU pilots a "gradual introduction of an integrated management system for external borders" (Article 77 TFEU).

It is however wrong to think that borders have disappeared within the Schengen Space. National borders still exist and Article 77 of the TFEU states that the EU migration policy shall "not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law". The whole process of economic and political integration has been to devalue the protectionist function of borders, so to avoid any border effects and therefore to allow a transformation of borders into spaces of free movement.

As it is assessed by the EU law doctrine, the EU internal market and Area of Freedom, Security and Justice are based on an effective application of non-discrimination principle, freedom of access to national markets and mutual recognition of various national standards (Azoulai 2011). Border effects are exceptional in that respect and only when they adequately protect a national general interest, such as public health, security, or environmental protection. Borders as such are no longer systematically sites of control of the host state (Labayle 2013). The EU favored, for example, post-market controls which are realized when products are sold (Regulation (EU) 2019/515 of 19 March 2019 on the mutual recognition of goods lawfully marketed in

another Member State, OJ L91, 29.3.2019). This has led in a number of cases to new social or environmental borders within the Member States (Barbou des Places 2013).

1.2 The constant reinforcement of security controls on EU external borders

What is also true – but often forgotten – is that the Schengen system is also based on the opposite view. The Schengen agreement has been developed as a means of reinforcement of external borders to control immigration, perceived as a threat to public order and public security (Guiraudon 2011).

This position is evident in the Schengen crisis of 2015. Controls were in place for all entry and exit at the border crossing-points of the EU external borders. As Article 5 of the Schengen Borders Code states: "External borders may be crossed only at border crossing points and during the fixed opening hours" (Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L77, 23.3.2016). The crossing of borders is subject to proof that third-country nationals (non-EU nationals) entering the EU are in due possession of travel and entry documents such as visas or working permits (Article 6 of the Schengen Borders Code). In other words, migration is subjected to documented movement across external borders for third-country nationals, whereas movement of EU nationals within the European Area of Freedom, Security and Justice is in principle free from any administrative authorization (Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, OJ L158, 30.4.2004).

Article 8 of the Schengen Borders Code gives strict obligations to border guards. They must rapidly check the identity of European citizens. They are required to proceed in more detail with third-country nationals to check if they have the proper documents to enter European territory or if they are asylum seekers. For third-country nationals it is clear that the EU external border is a space of physical immobility and scrutiny. Member States therefore have to provide infrastructures and border guards in sufficient number. This policy led to concentrations of migration influx at the external borders of frontline Member States, *i.e.* Member States which are the first on migratory routes.

The very function of external borders of the European Union as organized by the Schengen Borders Code is implicitly to block migration movements – which are often described as waves – at the checkpoints defined as such by Member States. External borders are the lines at which national authorities and FRONTEX

must be able to classify migrants to organize the protection of asylum seekers, the free movement of legal migrants, and the return of illegal migrants. The EU has therefore established a classification under which a legal status, which determines the right to cross the border, is assigned for each migrant (Barbou des Places 2010). For legal migrants the principle is that they enter the Union and stay in the country that has given them a legal permit to stay, and for asylum seekers, in the competent State for the examination of their asylum claim. Under the rules of Dublin Regulation, the competent State is the one with which asylum seekers have objective links (for example a family) or their first country of entry into the European area (Dublin III Regulation, N° 604/2013 of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, OJ C 212 E, 5.8.2010). Illegal migrants – undocumented persons – do not have the right to enter Europe. They are subjected to strict controls to secure their return back to a safe country or their country of first arrival (Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L348, 24.12.2008). To avoid any irregular entry, asylum seekers and illegal migrants wait at the border in formal or informal camps, the infamous so-called "jungles". In that sense, the EU is transformed into a fortress built on strong police cooperation between Member States. The justification put forward is the fight against illegal migration and other security objectives such as the fight against terrorism (Bouagga 2017; Thalmann 2019, 122). External borders are organized to become infrastructures for controlling migrants and to be secured points of entry into European territory. This new architecture of entry points derives from a legal approach based on the potential threats that migration represents for Member States. This led to a legal tension between the European organization of external borders and the competence devoted by Article 4 of the Treaty on European Union, hereafter TEU, to the Member States to protect public order and public policy.³

The massive arrivals of migrants in Greece and Italy in 2015 had many consequences for this Schengen Area and its borders. This constitutes a crisis of the Schengen set of laws which is sometimes described as a suspension of the Schengen regulations. This point of view does not correspond to the reality: Schengen is fully applied but the derogations provided by Schengen Borders Code for national controls of internal EU borders tend to become the norm since 2015 (Guild 2016). In that respect, we should speak of an abuse of the Schengen system instead of its *de facto* suspension. This shift in the Schengen way of functioning must be observed from the perspective of the re-appropriation of migrant controls by some Member States.

2. The Schengen Crisis and Disconnecting the Legal Status of Internal and External EU Borders

The Schengen Borders Code and the EU treaty resulted in an imbalanced burden for Member States regarding the registering and reception of migrants which explains the 2015 Schengen crisis (2.1). This also explains the primary reaction of Member States: getting back the control of their national borders to protect their territory from what they have perceived as a massive and threatening arrival of migrants in 2015. Our argument is that such measures are built into the Schengen Agreement and should not be condemned as such if implemented duly respecting EU law. The role of the ECJ will therefore be analyzed in more detail (2.2). The problem faced by the supranational European institutions is to find out how to go back to the "normal" functioning of internal borders within the Schengen Area (2.3) and to protect the principle of solidarity that is at the heart of the Schengen system (2.4).

2.1 An imbalanced Asylum and migration policy developed in the Schengen Area

The Freedom, Security and Justice Area has not been developed on a territorial basis but rather on spatial logic determined by the will of the Member State to be part of it or not. It explains the development of special status for certain Member States according to various protocols attached to the EU treaties (Burgorgue-Larsen, 2004). The Schengen Area is a sub-space of the Freedom, Security and Justice Area, which is added to the "space without internal borders" that constitutes the internal market. One of the key elements to understand the changes that have occurred since the 2015 Schengen crisis is the asymmetric position between the EU and its Member States but also between Member States themselves.

These asymmetric positions result from the EU Asylum policy encompassed in the so-called Dublin system. According to Article 78 of the TFEU: "The Union shall develop a *common policy* on asylum, subsidiary protection and temporary protection with a view to offering *appropriate status* to any third-country national requiring international protection and ensuring compliance with the *principle of non-refoulement*" (emphasis added). Asylum policy was first developed in an inter-governmental convention designed to determine single-country responsibility for the lodging and examination of an asylum claim in order to avoid any secondary movements between Member States and the risk of "asylum shopping". The reforms of the convention – later transformed into an EU regulation – were mainly concentrated on the question of the effectiveness of the Common Asylum System by establishing a set of criteria (by order of importance) to determine the responsible state. The Member States blocked any sort of uniformization of

the right to asylum as they considered the granting of asylum as a matter of national sovereignty. This gives the European Asylum System a prominent security objective to avoid any secondary movements of asylum seekers even at the expense of the principle of solidarity between Member States. All European regulation or directive on the rights of migrants (Directive 2013/33/EU of 26 June 2013 laying down standards for the reception of applicants for international protection, OJ L180/96, 29.6.2013) or the determination of categories of migrants have been reduced by Member States to coordination procedures (Directive 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, OJ L337, 20.12.2011). We agree with the literature assessing that the 2015 Schengen crisis stemmed from this lack of uniform asylum procedure, which resulted in an imbalanced burden on Member States for the administration of asylum seeking applications and migrants' reception to determine their legal status under EU law (Jasiewicz 2018).

The EU institutions tried to solve these problems by establishing clearer criteria to determine the competent country for the examination of an asylum claim. It appears from a 2016 evaluation of the Dublin III System that the criteria are not fully applied by all the Member States which gave rise to the movement of many "Dublinated" which cross internal borders within the EU to try to find a more favorable treatment to their asylum claim (Evaluation of the Dublin III Regulation, DG Migration and Home Affairs, Final report, 4 December 2015, available at https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/examination-of-applicants_en). Notwithstanding a reform in 2013 of the reception conditions directive and the directive determining "qualification of migrants", the Dublin III regulation did not encompass any explicit principle of distribution of migrants between Member States, thus creating permanent imbalanced movements of asylum seekers between Member States. The flaws of the system were blatant when the German Republic decided to open its borders to asylum seekers in the summer 2015; after a de-bordering movement of Hungary to let migrants arrive to German borders, many Member States decided to close their national borders to avoid being overwhelmed by a wave that never occurred. Germany itself had to close its borders to diminish the number of arrivals in its territory. Such unilateral control of national borders seems to be contrary to the "spirit of the Schengen System" and the clearest sign of its crisis (Communication of the Commission of the 4th of March 2016, Back to Schengen (revenir à l'esprit de Schengen in French) – A Roadmap, COM(2016) 120 final). Member States believed that they still had the power to determine who has the right to stay on their territory. Such an approach has been denied by the

ongoing process of reform of the Dublin regulation. As odd as it might appear the only solution suggested by Member States within the European Council of the EU to solve the Schengen crisis is to develop a more common approach to asylum (New Strategic Program 2019-2024 adopted in June 2019 by the European Council). Our assumption in this article is that such a unified approach is possible *only* because Member States have the right to activate national control of their own borders in case of danger. EU institutions are trying to frame these attempts as provisional responses to an incoming danger (see below).

The EU migration policy has also been profoundly impacted by the terrorist attacks in 2015 and 2016. The Schengen Borders Code has been reformed in 2017 to allow for a more stringent and systematic control of all entries of persons within the Schengen Area, but also all the exits from the EU by a control of documents and EU databases in order to ensure that nobody hides his or her real identity, together with a diversification of police controls and the development of joint controls between national police forces (Regulation 2017/458 amending Regulation (EU) 2016/399 as regards the reinforcement of checks against relevant databases at external borders, OJ L74, 18.3.2017). What is striking in this respect is that the fight against terrorism resulted in more integrated management of external borders concerning the controls of migrants' movements.

The Schengen Borders Code was also reformed in 2011 to proceduralize national controls of internal borders to allow for a better protection against serious threats to public order and public security of each Member States.⁴ The Schengen crisis is indeed not a one-way process: it generates unilateral claims based on national sovereignty to control national borders and fuels more integrated management of common external borders to safeguard national public migration choices.⁵ In this respect, unilateral control of national borders appears much more as a delaying tactic than a return to a Westphalian approach of national borders.⁶

2.2 The strategy of the ECJ to limit national controls of internal borders

The ECJ has an increasingly heavy influence on the Schengen Area and has used different techniques to reduce the imbalances of the Dublin system (Warin 2018). Judges have used the *human rights perspective* to impose the use of "sovereignty clause" of the Dublin Regulation (Article 17(1)) as a mandatory means not to send migrants back to the country of first entry when it is contrary to human rights standards.

The ECJ is indeed fully aware that Member States never faced the same pressures of migration, and maintains their sovereign right to determine who is in their territory (ECJ, 2 April 2020, Commission v. Poland, Hungary and Czech Republic, C-715, 718 and

719/17, ECLI:EU:C:2020:257). This led to considerable problems in the application of the Dublin System, which stemmed from an increase in secondary movements of migrants. Belgium for example has been condemned by the European Court of Human Rights because it transferred migrants back to Greece, the country of first entrance, irrespective of massive human rights violations in asylum camps contrary to the Human Rights Convention, *i.e.* Article 3 of the European Convention on Human Rights (European Court of Human Rights, MSS, 21 January 2011, 30696/09). The Court of Justice of the European Union confirmed that Member States should use the sovereignty clause of the Dublin II Regulation to avoid any transfer contrary to systemic violations of human rights, making use of Article 18 of the European Charter of Fundamental Rights which explicitly protects the right of asylum (ECJ, 21 December 2011, N.S., C-411/10 and C-493/10, ECLI:EU:C:2011:865 and 14 November 2013, Puid, C-411 and 493/10, ECLI:EU:C:2011:865). The Courts tried to diminish the sovereignty defense by Member States by confronting them with one of the core articles of the ECHR and the right of asylum embedded in the EU "constitution". At the same time, such an approach was not strong enough to rebalance the whole Dublin system. The Court of Justice had to give an answer to the status of the national decisions to take back controls of national borders. The European judges have clearly privileged the *protection of the legal DNA of the European integration process*.

Many Member States decided to unilaterally solve imbalanced secondary movements of migrants by recovering national control of EU internal borders. The Schengen Borders Code has even been adapted to this strong demand and contains two mechanisms that allow Member States to take back control of their own borders. One is designed as a "general framework for the temporary reintroduction of border control at internal borders" (Article 25) in case of "serious threat to public policy or internal security". The second mechanism, embodied in Article 29, is actionable in the case of the systemic incapacity of a Member State to control external borders.⁷ Both possibilities are limited in time and should be strictly proportionate to the danger.

It is interesting to underline the role of the Court of Justice of the European Union in this respect. It has interpreted the principle of EU Law stating that the management of internal borders by Member States is done *mutatis mutandis* following the Schengen Borders Code. In the *Abdelaziz Arib* judgment, the judges stated that the internal border does not exactly play the same role as the external one: "Under Article 2 of the Schengen Borders Code, the concepts of 'internal borders' and 'external borders' are mutually exclusive. The very wording of the Schengen Borders Code therefore *precludes*, for the purposes of that directive [*i.e.* the Return Directive], an *internal border* at which border control has been reintroduced under

Article 25 of the code *from being equated with an external border*" (emphasis added, ECJ, 19 March 2019, C-444/17, ECLI:EU:C:2019:220; see also ECJ, 13 December 2018, Touring Tours und Travel GmbH, C-412 and 474/17, ECLI:EU:C:2018:1005). To reassert control of an internal border does not mean that Member States regain the same use of their national borders that they had before Schengen. Internal borders have been definitively transformed by EU integration and does not allow for a management of migration as such but for the free movement of persons. As Advocate General put it into its conclusions: "The general rule, which is the *raison d'être* and the key provision of the code, is set out in Article 22 of Title III: internal borders may be crossed at any point without a border check on persons being carried out". In this sense the Court of Justice clearly decided to limit the ambit of the re-appropriation of national borders by Member States. If they can intensify controls under the terms of the Schengen Borders Code, they cannot consider that they regain the power to control as if their border is an external border of the European Union. In this sense, the European Court of Justice is limiting the Member States' attempt to re-nationalize the control of external borders and makes instead a clear step towards a more supranational management of external borders. These borders are still viewed as a place for the organization of controls of dangerous migrations; the Court maintains the management of external borders based on security which contrasts with the management of internal borders based on freedom.

2.3 The necessity to guarantee a concerted lifting of national control of internal borders to protect free movement

The Court does not have yet to decide on the legality of the lifting of national controls but we have decisive guidelines of the European Commission for such a lifting in the framework of a health crisis such as the COVID-19 pandemic. What is clear from the May 2020 Communication of the European Commission is that it is easier to decide controls at the national border than to reopen national borders for free movement. The Schengen crisis showed these drawbacks. The COVID-19 crisis gives new impetus to develop necessary tools for such a movement and may be interesting to revive the Schengen Area. For the first time, the Commission provided for a toolkit for a progressive lifting of controls imposed at national borders to protect public health (Communication issued on 13 May 2020, COM(2020) 3250 final). This could also be applied to the migration controls to go back to the spirit of the Schengen Borders Code as it is stated in recital 22 of the 2016 regulation: "In an area without internal border control, it is necessary to have a common response to situations seriously affecting the public policy or internal security of that area, of parts thereof, or of one or more Member States, by allowing for the *temporary* reintroduction of internal border control in *exceptional*

circumstances, but without jeopardizing the principle of the free movement of persons. [T]he conditions and procedures for reintroducing such measures should be provided for, in order to ensure that they are exceptional and that the *principle of proportionality* is respected" (emphasis added).

The European Commission promotes a progressive and coordinated lifting of controls if warranted by the epidemiological situation on both sides of borders. The Member States will exchange information to assess if health conditions are comparably amenable to re-opening borders. The Commission recommends developing regional or local controls at borders in case of new infectious outbreaks. The Commission also underlines the importance of informing people of their rights to cross borders. The European roadmap emphasizes that such reopening is by nature progressive and coordinated. Borders are means that can be mobilized by Member States but with limitations, such as behavioural obligations (*i.e.* social distancing) and with proportionality in a manner so as to fight against the pandemic.

Permanent exchange of information and regular meetings between administrations are necessary to enhance mutual trust needed for multilateral assessments of the risks and common protocols to lift obstacles to free movement. This technical approach could also be used for a de-escalation of border controls of migrants. It might be a good way to relaunch solidarity between Member States for the settlement of migrants.

The main concern is the effectiveness of such recommendations. We know that the question for EU institutions is how to get away from the kind of derogations provided for by the Schengen Borders Code. For example, France is the only country which uses Article 25 to fight against terrorism by enhancing controls at certain national crossing-points of its internal borders. As the level of this specific threat is alleged to not diminish, the French government argues that it respects Article 25 by re-conducting national border control every six months, which is "strictly necessary to respond to the serious threat". As for now, the French Conseil d'Etat has never censured these administrative decisions which shows the limits of judicial control of that kind of discretionary decisions (Hamon & Fadier 2018).

2.4 The necessity of a stronger solidarity between Member States promoted by courts

The national control of borders is a sign of a profound lack of solidarity between Member States, which the Court of justice indicated was a core principle of the Schengen Area. Article 78 paragraph 3 provides that "In the event of one or more Member States being confronted by an emergency situation characterized by a sudden inflow of nationals of third countries, the

Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned". This article has been used for a reallocation process of asylum seekers to help the frontline Member States decided in 2015 (Decisions (EU) 2015/1523 and (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, OJ L239, 15.9.2015). The objective of the decision is to allow for a provisional system of transfer of asylum seekers from Greece and Italy in derogation of the Dublin Regulation principle of the responsibility of the country of first entry (it does not concern the other criteria to determine the responsible State according to special linguistic, cultural or family ties).

Such a system has in practice never worked. Hungary, Poland and the Slovak Republic refused it and contested its legality before the ECJ (ECJ, 6 September 2017, *Slovak Republic and Hungary v. Council*, C-643 and 647/15, ECLI:EU:C:2017:631). Having said that, the Court assessed that the 2015 decisions are within the ambit of competence of Article 78 §3 of the TFEU as they were provisional and non-legislative measures "intended to respond swiftly to a particular emergency situation facing Member States" (point 73). It is not general measures intended to regulate asylum seeker fluxes that ought to be based on Article 78 §2 of the TFEU, which allows for the application of the ordinary legislative procedure and not decision by the Council on proposal of the Commission. According to Hungarian arguments, the decision to impose binding quotas is a disproportionate burden because of the migratory pressure on its own borders. The ECJ first stated that such a pressure has been diminished by "the construction by Hungary of a fence along its border with Serbia and the large-scale westward transit of migrants in Hungary, mainly to Germany" (point 287). The ECJ justified the sharing of the burden of massive migrants' arrival as being "in accordance with the principle of solidarity and fair sharing of responsibility between the Member States, since, in accordance with article 80 TFEU, that principle governs EU asylum policy" (point 291).

The Court pointed out in April 2020 that the refusal of Hungary, Poland and the Czech Republic to accept the relocation of asylum seekers for reasons of public order or security was illegal (ECJ, 2 April 2020, *Commission v. Poland, Hungary and Czech Republic*, C-715, 718 and 719/17, ECLI:EU:C:2020:257). The ECJ stated very clearly that the protection of public order or internal security "does not confer on Member States the power to depart from the provisions of European Union law based on no more than reliance on the interests linked to the maintenance of law and order and the safeguarding of internal security, but requires them to *prove that it is necessary* to have recourse to that derogation in order to exercise their responsibilities on those matters" (point 152).

The temporary relocation of migrants had been negotiated in compensation of a common system to help migrants. It was therefore decided to create *hotspots* in frontline Member States to organize a fully effective registration of migrants and to accelerate the treatment of asylum claims. As relocation was a political fiasco, hotspots have been transformed in detention centers for migrants waiting for an administrative decision in Greek or Italian islands (Casolari 2015).⁸ The lack of solidarity had therefore very clear and harmful consequences for migrants and for European values. The ECJ did not develop a clear view on that point unless validating the relocation process provisionally decided by the Council on proposal of the Juncker' Commission. The European Court of Human Rights has already tried to rebalance the system in favour of the respect the most basic human rights. In a decision in 2020 the Court also took on board the necessary protection of public order and backed Spain's deportations at African enclaves of Ceuta and Melilla (European Court of Human Rights, N.D. and N.T. v. Spain, Applications 8675/15 and 8697/15, 13 February 2020, which contradicts on appeal the previous decision of the Court, CEDH, 3 October 2017, N.D and N.T. v. Spain). The judgement considered that the asylum seekers "placed themselves in jeopardy by participating in the storming of the Melilla border fences" and that they "have failed, without cogent reasons" to seek entry through an official border crossing. It shows the delicate balance between States' rights and human rights of asylum seekers and has been heavily criticized as not taking into account the pressure exercised on asylum seekers to arrive in Europe by illegal migratory routes.

Another problem has arisen before French courts and is concerning an *additional dimension of the principle of solidarity*. Due to the lack of State organization of the reception of migrants, more and more private undertakings and NGOs are involved in border management (Gammeltoft-Hansen and Nyberg Sørensen 2013). It is a concern explicitly mentioned by the EESC (2020) in its advisory opinion on the Asylum and Migration Pact, which expresses concern over the heavy tendency of Member States to criminalize any help given to migrants by private persons. Citizens helping migrants mainly for humanitarian reasons have therefore been charged by French authorities under the penal qualification of "facilitation of illegal migration". The French Constitutional Council has condemned this kind of practice, invoking a newly established principle under French Constitutional Law, *i.e.* the principle of fraternity embedded in the third word of the French republican motto. The Constitutional Council precisely stated that the principle of fraternity permits a freedom to help a migrant in humanitarian need without taking account of the regularity of his or her stay in the national territory.⁹ Humanitarian aid cannot be criminalized unless public authorities violate the necessary balance between the principle of fraternity and the safeguard of public order on their own territory. The French Cour de Cassation has recently decided to extend such a protection to

associations protecting human rights of migrants (*Cour de cassation française*, decision 33, 26 February 2020 (1981.561), ECLI:FR:CCAS:2020:CR00033). It is striking to observe that this principle of humanitarian reception of migrants is developed not by states but mainly by towns, acting in the framework of their powers to integrate migrants in local development. Such initiatives are part of the Intercultural cities concept developed by the Council of Europe (see its website, <https://www.coe.int/fr/web/interculturalcities>)

As the solidarity principle is a core principle of the EU Common Asylum Policy and a requirement for a more coherent EU immigration policy, a more cohesive management of EU external border should also be found to end the Schengen crisis due to the imbalance of Member States' obligations according to EU asylum and migration policy. Commissioner Ylva Johansson recently declared: "We need a new pact on migration and asylum, first of all because the most vulnerable depend on it, and, second, because our economy and society depend on it: the future of our welfare state is at stake and our companies need skilled people" (EESC 2020). It is clear from this declaration that asylum seekers are not solely seen as a burden for the EU but are perceived as necessary to ensure the proper functioning of the economy and social protection, which is the heart of the European social model.

3. The paradoxical need for a more supranational and cohesive management of external borders

The Schengen crisis revealed two key points with which the European Union must learn to live: permanent migratory pressure (which means that it should not be considered as a temporary emergency) and the necessity for more common controls of external borders. A lot of EU law reflects as we have said a constant reinforcement of the historical security-oriented approach of migration policy. At the same time, the development of solutions to the 2015 Schengen crisis is following another perspective, *i.e.* a disconnection of migration policy from security perspectives to promote a more cohesive approach to migration as a potential benefit for the European economy and social security funding (3.1). The pathway to smart borders reveals the same ambiguity for more secure external borders founded on an individual risk-based approach which avoids considering every migrant as a potential danger (3.2). The recent Von der Leyen's Commission has moved towards a migration policy based on a more positive view of migration (3.3).

3.1 An ambiguous shift towards disconnecting security and migration

The enhanced powers given to FRONTEX, the European Border and Coast Guards Agency, in 2016 and 2019 are for example a means to reinforce a common approach of EU external borders' management (Regulation (EU)

2019/1896 of 13 November 2019 on the European Border and Coast Guard, OJ L295, 14.11.2019). It helps for a stronger cooperation to secure external borders and also created the European Border and coast guards to allow for a common set of rules for common management of migration. The weakness is that the Agency still relies upon the material implication of Member States which maintains an intergovernmental approach to allow for more unified action. The Eurosur Handbook also encompassed a compendium of Good Practices for border management. Eurosur is one of the many databases developed by the EU to register data on migration and migrants. It is linked to FRONTEX and helps to exchange information since 2013 to reduce illegal immigration, combat international crimes and safeguard the lives of migrants and their protection at sea. The Handbook gives guidance for surveillance and risk assessment more than guidelines for protective borders (adopted on 15 December 2015, C (2015) 9206 final). This goes in the sense of a disconnection between security policy and borders' management.

A concurrent and opposite example of a full security-oriented approach to migration policy can be nevertheless found in the *Sophia* operation decided in the field of EU defense policy to fight against illegal migration in the Mediterranean Sea. According to elements revealed by *Politico* in February 2019, the real mission of *Sophia* relying on private boats was to organize the "re-foulement" of migrants and not their safeguard (Campbell 2019).¹⁰ Member States first drastically reduced its financial means of action and obtained that the operation is now primarily functioning to secure their coasts.

The EU may find an impetus to depart from an exclusive security-oriented migration policy in international law. The Global compact for Migration signed in December 2018 is for example based on a much more inclusive approach to migration, considering that crossing borders cannot be considered as a public offense but should be conceived as a global challenge and opportunity. The 11th objective of the Global Compact is to manage borders in an integrated, secure and coordinated manner. This general principle is of the utmost importance for the European Union as open borders is the heart of its integration. It is obvious that external EU borders generate differential treatments of crossing considering the necessity to guarantee internal security of the EU and its Member States. The Global Compact for Migration however insists on the necessary protection rather than on the detection of migrants. One of the consequences of such an approach is the development of technical cooperation agreements to strengthen border management, particularly in emergency situations. Solidarity between Member States is therefore not a simple question of sharing the burden generated by migration but on the contrary about enhancing solidarity to promote migrants' fundamental rights. The Commission's proposal for a new Asylum and

Migration Pact follows the same lines but it is not clear that Member States will consent to such a reorientation of European migration policy. The same ambiguous approach characterizes the development of smart external borders (Communication of the Commission, Commission Work Program 2020, A Union that strives for more, COM/2020/37 final).

3.2 The potential of Smart borders for a more effective and individualized management of borders

The multiple exchanges of data between Member States and FRONTEX or other European data-bases have led to the constitution of the European Interoperability Architecture which is designed to facilitate cross-border cooperation. The consequences are obvious at the external EU borders which are transformed into smart borders. To manage migration influxes, the idea is to use smart systems to authorize effective and efficient management of external borders, which strikes a balance between facilitation for travelers and protection of internal security. The EU-LISA agency already managed Schengen Borders with a better interoperability of different databases (<https://www.eulisa.europa.eu/>).

The danger of such a new paradigm is that it is centered on the traceability of dangerous persons or persons placed in illegal situations. It may lead to an administrative coverage of populations in movement at a global scale. In such circumstances smart borders will become contrary to European fundamental freedom of movement and fundamental rights protected by the European Charter of Fundamental Rights. In that sense, smart borders are another form of security-orientated migration policy at a much greater scale.

It is also arguable that smart borders are a more efficient way to manage migrant flows. The EU must have the ambition to build a more resilient system to control migration, and smart borders can help in this perspective. The EU must indeed design an effective and secure migration policy to avoid unilateral national reactions endangering the economic and social cohesion of Member States. The collection and use of data collected for each travel into the EU would help to trace individuals but also to foresee a "wave" of migration. It would be far easier to manage migration and not just control it and to guarantee rights for documented migrants. The European Travel Information and Authorization System (ETIAS) has for example been adopted in that perspective. ETIAS "should provide a travel authorization for third-country nationals exempt from the visa requirement enabling consideration of whether their presence on the territory of the Member States does not pose or will not pose a security, illegal immigration or a high epidemic risk" (Recital 9 of the Regulation (EU) 2018/1240 of 12 September 2018 establishing a European Travel Information and Authorization System (ETIAS), OJ 19.9.2018 L 236). In

this definition, security risk is one of the three potential dangers of migration for Member States and not the only one (or even the most important one). Such reform allows for a more individual tracing of danger so to avoid a purely negative perception of movements of persons all around the world. Such a technical infrastructure is obviously a necessary tool for better control without obliging migrants to wait at borders or to know in which category of migrants they will be classified. Such technological control may help to develop a more inclusive approach of international migrations, supporting the proposals of the newly appointed Commission in December 2019.

3.3 The advocacy for structural reforms based on orderly migrations

A book published in 2018 concluded that the Schengen system must be radically revised following three assumptions (Stoyanova & Karageorgiou 2018). First, the Schengen crisis has resulted in a shift of frontline Member States to more stringent control of migrants' movements. The Court of Justice never endorsed the responsibility to change the perception of migrants as burden for the host country: a refugee is not the person to be protected but a person to be fenced out.¹¹ Second, EU institutions¹² are protecting the Dublin system as such, even if it is not effective for asylum seekers and Member States. This is not sensible for human rights protection and should be changed to guarantee effective protection of asylum seekers. Thirdly, countries that were once on the sidelines of asylum in Europe have started to play a significant role in shaping the asylum system in the EU.

The Von der Leyen Commission is taking on board part of these assumptions to propose a new Asylum and Migration Pact for Europe. Her proposals are based on a unification of asylum policy which is the only way to block any secondary movements of migrants in Europe. Such a proposal is a strategic move of the Commission to eliminate the country of first arrival principle with a clear "federal" proposal. It is interesting to see that this sensitive point is possible because a consent of Member States is expected on a uniform Asylum Policy as an indirect result of the 2015 Schengen crisis. This uniform Asylum Policy should be complemented by secure migratory routes guaranteed by the EU for documented migrants and various legal pathways for people in need, for example resettlement programs and humanitarian visas to diminish illegal migration. These are the conditions for an orderly, monitored and managed migration in Europe. This program has been recently supported by the European Economic and Social Committee in March 2020.

The main challenge for the next coming months is the refusal of certain Member States to share the administrative and economic burden of migration. A federal step forwards would probably imply more differen-

tiation between Member States to promote an effective solidarity between them. In early July 2020, the German Federal Interior Minister, chairing the Council of the EU, declared that almost all Member States were "prepared to show solidarity in different ways". This implies differentiated participation to strengthen solidarity. For example, "while about a dozen member states would like to participate in the distribution of those rescued from distress at the EU's external borders in the event of a 'disproportionate burden' on the states, other states signaled that they wanted to make control vessels, financial means or personnel available to prevent smuggling activities and stem migration across the Mediterranean" (Goßner 2020). Since the very beginning of the Schengen system a more integrative approach to migration policy has been encompassing intergovernmental foundations (Guiraudon 2011): if Member States do not want to transform the Schengen crisis into the new norm they must accept a more uniform migration policy. This considerable change would give less importance to security perspectives and develop a more integrative migration policy based on the rights of migrants as being part of European integration.

4. New narrative of borders in the EU to solve the 2015 Schengen crisis

The EU has been built on the legal premises of the elimination of border controls and it has continually strived for their gradual devaluation (Berrod and Bruyas 2020). The reform of the Schengen governance in 2011 gave the Member States the opportunity to get back provisional national control of internal borders in cases of serious risk for public order and internal security. The 2015 Schengen crisis proved that the provisional character of such process is difficult to control, so much that controls of national borders still exist in 2020. But it has to be said that more stringent controls on some borders has allowed for a more balanced analysis of the return of borders within the European Union.

What has been realized by the 2015 Schengen crisis is the legal capacity to re-use national borders to secure Member States from massive influx of migrants. It has resulted in a double-mechanism: at first, migrants are controlled and "selected" at external EU borders and secondly, they are controlled within the Schengen Area to solve imbalanced movements and administrative burdens between Member States. To be able to tackle this need of borders to secure national identity and European integration, the EU has to define a new narrative to explain the differentiated function of borders based on a functional difference of status between internal and external borders. In 2019, the EU already considered its external borders as "protective filters" for goods arriving from outside (Regulation (EU) 2019/1020 of 20 June 2019 on market surveillance and compliance of products, OJ L169, 25.6.2019). In 2020 it redefined these borders differently: as a health and

safety mechanism of the utmost importance in the COVID-19 crisis. To do so, external borders are the point of systematic controls of every person entering the EU to prevent the entry of the coronavirus into the Union (Communication from the Commission on the assessment of the application of the temporary restriction on non-essential travel to the EU, COM/2020/148 final). These borders are now "viscous", so that infected people can be detected and isolated. Information is coordinated between Member States to allow for opened internal borders. The European Commission has even provided Member States with a sort of handbook to close the internal borders and reopen them after a sanitary crisis.

Borders may therefore be used as filter to prevent dangers. But such a controlled border must be a proportionate means to protect the European Union or the Member States. It is however not a wall nor a defensive fence. It should be a zone of control and of protection of migrants. This allows for new forms of "laissez passer", leaving to external borders a role of protection of European sovereignty with a Westphalian flavor and to internal borders a role of chosen interconnection of national spaces. It is quite a profound evolution of the European integration.

Notes

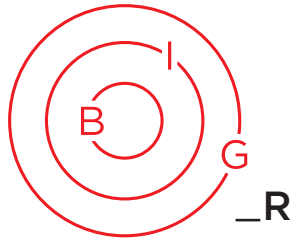
- 1 See the wording of the Internal Market Strategy, 2015: "The Single Market is at the heart of the European project, enabling people, services, goods and capital to move more freely, offering opportunities for European businesses and greater choice and lower prices for consumers. It enables citizens to travel, live, work or study wherever they wish" (https://ec.europa.eu/growth/single-market/strategy_en).
- 2 The spirit of solidarity between Member States is enshrined in Article 80 of the TFEU, which states that "the policies of the Union set out in [the] Chapter [on Border Checks, Asylum and Immigration] and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States".
- 3 Article 4-2 of the TEU states that "The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State".
- 4 The first Schengen crisis in 2011 led to a new possibility of control on internal borders: the present Article 29 of the Schengen Borders Code.
- 5 Let us remind that it is for the Member States to determine their quota of migrations accordant to Article 79-5 of the TFEU.
- 6 On this approach, see Thalmann (2019, 129). He concludes that such an approach has never disappeared but that the EU has profoundly changed the set of the game.

- 7 This mechanism was used by several Member States; only Sweden decided to stop applying controls at borders. See https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control_en.
- 8 See also the report of the European Court of auditors which objectively describes these bottlenecks: <https://op.europa.eu/webpub/eca/special-reports/refugee-crisis-hotspots-06-2017/en/>.
- 9 The French wording is the following: « il découle du principe de fraternité la liberté d'aider autrui, dans un but humanitaire, sans considération de la régularité de son séjour sur le territoire national ». Decision 2018 717/718, QPC, 6 July 2018, Cédric H. and others.
- 10 On the revamp of Sophia, see Barigazzi (2020).
- 11 See esp. ECJ, X and X, where the CJEU clarified that any state willing to provide refugees with alternatives to accessing asylum would have to deal with this individually as a matter of national policy (ECJ, 7 March 2017, Case C-638/16 PPU, ECLI:EU:C:2017:173).
- 12 The ECJ had for example the opportunity in the Jafari case (ECJ, 26 July 2017, C-646/16, ECLI:EU:C:2017:586) to declare the first entry criterion in Dublin Regulation not suitable within a context of a crisis, chiefly as opposing the principle of solidarity between states. The court could have opted for a circumstance-specific interpretation of the Dublin Regulation based on relevant EU and international norms and principles which would have alleviated some of the disproportionate pressure put on the countries in question and, most importantly, make it more likely for asylum seekers to receive proper treatment.

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ARTICLE

The Ambiguous Relationship Between the EU and its Internal Borders: The European Citizen's Point of View

Aude Bouveresse *

The free movement of EU citizens within the Union reveals the ambiguous relationship between the EU and borders. While the functioning of the internal market is essentially based on freedom of movement and implies the elimination of borders as barriers to trade, the freedom of movement of the European citizen remains defined largely within the conceptual framework of borders, since nationality is a prime requirement for European citizenship. Inside the EU, as this article highlights, borders are necessary and problematic at same time. The Court has played with the concept of borders to address these ambiguities with a view to deepening integration. The conclusion is that if the Court has been able to effectively remove obstacles related to internal borders concerning the free movement of goods and the movement of active economic persons, such has not been the case for the free movement of European citizens, economically inactive. It follows from the division of competences and the case law of the European judges that solidarity remains intrinsically linked to nationality and therefore inevitably leads to the re-establishment of borders and the separation of peoples. This demonstrates the resistance of the “paradigm of a European market citizenship”. By revaluing nationality in the context of the enjoyment of the rights linked to citizenship, the European Court of Justice could hamper the integration process by renationalising the individual and establishing new borders.

Introduction

When discussing the relationship between the European Union and borders, the natural reflex is to postpone the scope of the study on the external borders of the Union. While the problems of the Union's external borders are obvious, the importance of the issue of borders within the Union is often overlooked. The question of internal borders is fundamental in that it reflects the ambiguity of European construction and its neither federal nor confederal nature. In this perspective, the semantics are interesting. We no longer refer to “national

borders” but to “internal borders”. This means, on the one hand, that the internal borders of the European Union are special ones, but, on the other hand, that the border remains between the Member States or at least that it may be called upon to reappear. This persistence of internal borders is largely linked to the division of competences between the European Union and its Member States and the lack of sovereignty of the European Union. The distribution of competences proves to be even more problematic in that it involves taking account not only of their shared, exclusive or

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coordinated nature but also of the territorial, material and personal scope of the Treaties.

From this point of view, the free movement of EU citizens within the territory of the Union is particularly revealing of the ambiguous relationship between EU and borders. The situation of EU migrants has some common point with the third-country national, since borders remain important to take into account. While the functioning of the internal market is essentially based on freedom of movement and implies, by nature and by definition, the elimination of borders as barriers to trade, the freedom of movement of the European citizen remains defined in reality and largely within the conceptual framework of borders.

Two main related reasons for this can be advanced. The first is the extent of the European Union's competences. They are still limited, particularly in the social field and are, in any case, shared in the management of the internal market. The second flows from the very concept of European citizenship, which remains largely dependent on nationality, which cannot be considered outside national borders. According to Article 20 of the Treaty on the Functioning of the European Union (TFEU), "Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship". In other words, nationality determines the status of European citizen and the rights deriving from it.

Confronted with questions involving the internal borders of the Union, the European Court of Justice has adopted an approach which may seem ambivalent because it must, on the one hand, protect nationality in so far as it conditions access to European citizenship and triggers the personal scope of application of the Treaties and, on the other hand, combat all forms of discrimination on grounds of nationality which hinder the establishment and functioning of the internal market. At the same time, finally, the Court must respect the competence of states in matters of nationality and enable them to maintain the special relationship with their nationals in accordance with state competence.

The oscillation in case law between protection and condemnation of the nationality criterion is not devoid of coherence. It is explained by the main and legitimate objective of integration pursued by the European Court. Thus the extension of the scope of application of the Treaties requires the nationality criterion underlying European citizenship to be taken into account and protected, just as the exercise of freedom of movement requires combating the nationality criterion. Both, thus, pursue the same objective of advancing integration. On the other hand, when the Court reintroduces and legitimizes the nationality criterion in support of a differentiation of European citizens, the approach seems more questionable. Nationality carries within

itself the difference. Nationality is indeed "in essence a mechanism of separation",¹ of discrimination between nationals and non-nationals. By revalorizing nationality in the context of the enjoyment of the rights linked to citizenship, it runs the risk of slowing down the integration process or even calling into question its model by running the risk of a renationalization of the individual and raising new frontiers.

From these various constraints it appears that, inside territory of EU, borders are necessary and problematic at same time. In this perspective, the main objective of this article is to highlight this ambiguity and, to this end, to analyze how the Court has been able to play with the concept of border and sometimes even go beyond it. This will include an analysis of how the Court has positioned itself to address these difficulties with a view to deepening integration and its approach remains relevant to this end.

Our approach proceeds as follows. In section 1 we analyze the original conflict between borders and European integration. Section 2 highlights the inherent link between the European Union and the border. Section 3 discusses some of the relevant case law which demonstrates how it can impact the free movement of EU citizens and more radically undermine the objective of integration.

1. The original conflict between borders and European integration

At first sight, the concept of borders seems to be in contradiction with the main principles of EU. The definition of border is interesting from that point of view. Defined as a line between countries, it means that a border is a separation between different things and, in our case, different states. It highlights the difference. Yet the European Union aims at unifying the Members States, especially in the economic point of view, and with time, European citizens, from a political angle. That is why borders seem difficult to reconcile with EU objectives.

Indeed, one of the original goals of the EU has been to create an area without internal frontiers, so called as an "internal market". And, in order to reach this goal, EU law breaks down barriers by creating and ensuring rights to free movement of goods, services, labour and capital within the territory of the EU. These "four freedoms" of movement, said to be "fundamentals" by European Court of Justice (ECJ)² were thought to overcome the physical barriers (e.g. customs at national borders), technical barriers (e.g. differing laws on safety, consumer or environmental standards) and fiscal barriers (e.g. different Value Added Tax rates). According to this principle, the movement of persons within the European territory should be as simple as if it took place within a single state.

Moreover, the ECJ, on the basis of the Treaty,³ has enshrined the right of equal treatment between the European citizen and the national of a Member State. According to that statement, having a "worker" status means protection against all forms of discrimination by governments and employers, in access to employment, tax, and social security rights of the host Member State. As a consequence, if economic actors coming from another Member State are treated worse than national economic actors, then the former may be deterred from moving to the host state. Thus, the aim of creating an internal market in labour will be jeopardized. The principle of non-discrimination has been (and still is) a cornerstone of the single market. The European Court of Justice by relating this principle to the constitutional rule of the free movement of persons, has been able to require that Members States ensure a strict assimilation of national and European workers on their territory. That is why European citizens should, in principle, know no European frontiers and should therefore not be subject to any distinction, particularly one linked to their nationality. The rules on market access and national treatment are not general requirements but specific commitments which, therefore, seem irreconcilable with the very idea of a barrier.

In other words, free movement implies the absence of barriers. The border is clearly the first obstacle to the free movement of persons. In this respect, borders appear, in fact, as the first tool at the disposal of Member States to adopt and apply legislation contrary to the Treaties, in particular with regard to protectionist taxation and discrimination on grounds of nationality. The founding fathers of Europe have no doubt about it and made clear, since the very beginning, the importance of removing trade and tariff barriers. To this end, the Treaty provides elimination of customs duties and quantitative restrictions, and the prohibition of measures having an equivalent effect.⁴ The close link between borders and barriers has been clearly demonstrated when the ECJ chose to define a charge having equivalent effect to customs duties as "any pecuniary charge, however small and whatever its designation and mode of application, which is imposed unilaterally on domestic or foreign goods *by reason of the fact that they cross a frontier*, and which is not a customs duty in the strict sense".⁵

However, it can already be noted that the problem is not so much the boundary itself as the implications of the concept. Borders raise questions in terms of national territory, nationality, sovereignty, which most of the time lead to protectionism. Thus, it is more the way in which Member States use the border to limit free movement, rather than the border itself, that could be in contradiction with the European Union. Furthermore, frontiers have to be seen actually as an essential part of the European Union. First, from a constitutional point of view, frontiers attest to its nature as an international organization with 27 independent member

countries with their own individual laws. Secondly, from a legal point of view, it could be said that EU law requires borders.

2. EU law requires Borders

It is not the least of the paradoxes that the EU needs borders, not only to demarcate itself from a third country or to ensure its security, but, in fact, to exist.

2.1. EU law application depends on the existence of borders

To be relevant and even to be applicable, EU law requires that goods, persons, services or capital cross a border. Indeed, the situation of persons who hold the nationality of a Member State and reside, or work and reside, within its territory is governed by the law of that State and these persons cannot, in principle, rely on EU law to derive any rights.

The consequence is that in order for a situation to fall within the scope of one of the fundamental freedoms, it must present a sufficient link with it. As explained in its case law, the Court has established that a case involves such a link when there is a sufficient cross-border element. Such an element has, traditionally, been found in the exercise of free movement from one Member State to another which contributes to the construction of the internal market. Therefore, the rule of the treaty has been interpreted as only applying to situations involving Member State nationals that are engaged in a cross-border situation which could be economic activity as well as, concerning EU citizens, non-economic activity. Thus, Article 49 of the TFEU, on the freedom of establishment, refers to the freedom of nationals of a Member State to establish themselves in the territory of *another Member State*. Article 56 of the TFEU prohibits any restriction on the freedom to provide services in a Member State *other* than that of the person for whom the services are intended. Article 63 of the TFEU prohibits any restriction on the movement of capital *between* Member States. In a nutshell, to enjoy EU protection, most of the time, it is necessary for citizens or their activity to cross a border. Otherwise, domestic law must be applied exclusively.

It is, in fact, the expression of the complexity of the division of powers between the EU and the Member States. Accordingly, to the principle of attribution of powers, EU must respect Members State jurisdiction and somehow sovereignty. It underscores the double need to promote the objectives of the EU whilst respecting the sovereignty of the Member States. In this respect, the Treaty refers to "trade between Member States".⁶ The treaty rules shall apply therefore to European internal trade, but shall not apply to intra-State trade. The latter remain the competence of the Member States. This situation, which is a direct

corollary of the limited scope of application of EU law and the system of multi-level governance, finds its expression in the "purely internal rule"—a construct of the ECJ indicating the absence of any cross-border element.

In the landmark *Saunders* case, the Court held that the treaty "does not however aim to restrict the power of the Member States to lay down restrictions, within their own territory, on the freedom of movement of all persons subject to their jurisdiction in implementation of domestic criminal law".⁷ In the same vein, the ECJ pointed out that "Consideration of the limits which the national legislature may have placed on the application of Community law to purely internal situations, to which it is applicable only through the operation of the national legislation, is a matter for domestic law and hence falls within the exclusive jurisdiction of the courts of the Member State."⁸ The consequence is that in a purely internal situation, EU law cannot be applied. Therefore, in that regard, borders appear necessary for EU law to apply. Without crossing an inter-state border, Union law is not intended to apply. Union law therefore needs, first and foremost, state borders for the simple reason that it is their crossing which triggers the application of Union law. Starting from this statement, it explains also why the European Court of Justice retains a broad understanding of the concept of border in order to extend the scope of EU law. In fact, if a citizen from a Member State has been working and living in this State but, for personal reason, decides to move to another Member State and continues to carry out his or her economic activities in the previous one, the Court considers that the Treaty provisions apply since, by crossing the border and residing in another State, he or she became a migrant worker.⁹

The best evidence of the requirement of borders is, in fact, that the Court itself has even created frontiers where there were none in order to extend the application of EU law. Thus, in the *Lancry* case, it held that the Treaty prohibits the imposition of a customs duty at any frontier, including one *within* a state. The Court stressed that "The unity of the Community customs territory is undermined by the establishment of a *regional customs frontier* just the same, whether the products on which a charge is levied by reason of the fact that they cross a frontier are domestic products or come from other Member States".¹⁰ It highlights also that the Court uses a single border concept, which could be also a regional one, although the European judge has never defined the concept of "regional frontier". However, the Court confirms its law in several cases.¹¹ Another implication flowing from these cases is that it affects the meaning of the notion of 'cross-border situation'. The Court stretches *ratione materiae* of EU law to cover virtually any hypothetical cross-border situations, e.g. those depending on cross-border birth¹² or even potential movements in the future.¹³

Moreover, the Court formulates in *Zambrano* a new jurisdiction test in EU citizenship cases. The Court held that "Article 20 TFEU precludes national measures which have the effect of depriving citizens of the Union of the genuine enjoyment of the substance of the rights conferred by virtue of their status as citizens of the Union".¹⁴ As a result, in those circumstances, any measures which have this effect of depriving citizens of the Union of the genuine enjoyment of the substance of the rights are within the ambit of EU law. As a result, since the case, the Court has two tests to determine the application of Union law: a familiar cross-border situation test and a loss of the genuine enjoyment of the substances of EU citizenship rights test.

This growth brought about a serious diminishing in clarity concerning the vertical delimitation of powers between the two legal orders in the Union. Borders and the cross-border requirement, in this context, enables distribution of power between the EU and the Member State. Such developments have been criticized, since they make unclear the divide between the scopes of national and EU law. Especially and in connection with our subject, the consecration of this new connecting factor necessarily weakens or at least minimizes the significance of the "cross-border test". The facts in *Zambrano* are quite illuminating in this perspective. The Court has developed the personal scope of application of Union law in such a manner that EU citizens who have never moved to another Member State can claim rights as EU citizens not only for themselves, but also for their family even if the latter are third-country nationals, when it is necessary in order to ensure that Union citizens can exercise their freedom of movement effectively. The reasoning of the Court is based on the fact that even if the children of Mr. and Mrs. *Zambrano* who always lived in Belgium, had never crossed any European member borders, the refusal to grant their parents a right of residence would, in fact, lead them to have to leave European territory to return with them to Colombia. Consequently, denying a right of residence to the parents of these children, who are European citizens, would deprive them of the effective enjoyment of their rights as European citizens. However, even if it blurs the concept of borders and its implication, it does not compromise its relevance in detecting a restriction on freedom of movement.

2.2. Borders detect barriers to the free movement

While borders are still necessary to trigger the application of Union law, they have also proved to be a particularly effective instrument for detecting obstacles to free movement. The definition adopted by the Court of Justice of "charges having equivalent effect" is a good example. According to settled case law it corresponds to "any pecuniary charge, however small and whatever its designation and mode of application, which is imposed unilaterally on goods by reason of the fact that they cross a frontier, and which is not a customs duty in the strict

sense, constitutes a charge having equivalent effect to a customs duty".¹⁵ The object of the tax is thus characterized by the crossing of the border and its qualification leads to its absolute prohibition. No justification can be given for a tax having equivalent effect to customs duties because such tax, by its very nature, is discriminatory.

For the same reason, in the context of the free movement of persons, nationality has always been considered a ground which turns differential treatment into discrimination. Thus, discrimination on the ground of nationality is prohibited by Treaties since it is capable of impeding the achievement of the aim of the creation of an internal market. Other than rare exceptions,¹⁶ any discrimination on the ground of nationality will always remain banned under EU law and it is one of the easiest obstacles to recognize for ECJ. In that respect, it is important to bear in mind that the border is intimately linked to nationality. That is why whenever a national regulation distinguishes according to the nationality of persons, it will necessarily be discriminatory and, by consequence, prohibited.

It explains also that even if according to established case law, it is for each Member State to lay down the conditions for the acquisition and loss of nationality, Union law does not remain totally indifferent to the exercise of their jurisdiction. The Court of Justice exercises proportionality control over the conditions for withdrawal, which increasingly strictly regulates the competence of states in matters of nationality.¹⁷ The Court held in *Rottmann* "The proviso that due regard must be had to European Union law does not compromise the principle of international law previously recognized by the Court [...] that the Member States have the power to lay down the conditions for the acquisition and loss of nationality, but rather enshrines the principle that, in respect of citizens of the Union, the exercise of that power, in so far as it affects the rights conferred and protected by the legal order of the Union, as is in particular the case of a decision withdrawing naturalization such as that at issue in the main proceedings, is amenable to judicial review carried out in the light of European Union law".¹⁸

That being said, it is important to keep in mind that EU law never has any ambition or competence to eliminate nationality. This particular link established between an individual and his or her state remains. Actually, sometimes it reappears so clearly, that the Court must deal with it in a manner to preserve the legitimate interest of Member States as well as its own legitimacy. It is one of the reasons European citizens can become identified as migrant.

3. How European citizens within the EU have become (illegal?) migrants

"Migrant" has an obvious connotative meaning and was, until the mid-2000s, an expression reserved

mainly for third-country nationals in EU territory. By contrast, nationals from Member States who exercise their rights of free movement inside the EU territory were designated "European citizens".

The Maastricht Treaty marked a turning point in the construction of Europe by enshrining European citizenship. However, the Court of Justice is responsible for giving meaning to this concept, firstly, by allowing any European national to invoke the rights they derive from Union law as a European citizen (direct effect of Article 21)¹⁹ and secondly, by settling the status of European citizen as "a fundamental status".²⁰ Finally, the Court has gradually brought about a European social citizenship based on the right to equal treatment based on Article 18 of the TFEU. On the basis of this principle, the ECJ considered that any European citizen legally residing in the host state, whether economically active or not, should be able to claim the same rights as nationals, including the right to social benefits.²¹ The idea of social citizenship emerges from this reasoning.

However, the anxiety caused in European societies by the unprecedented enlargement to ten and then twelve new Member States, the economic crisis, and increasing immigration, has deeply affected popular perceptions of intra-European mobility and complicated sociological acceptance of Union citizenship. From this perspective, if in the past the term migrant was reserved for third-country nationals, it now extends to the citizen of the European Union, who is perceived not so much as a European citizen but as a non-national who migrates. Migration then becomes associated with "law shopping" and, when it concerns the inactive, with "social tourism".²²

Responding to concerns of Member States, the Court backtracked from its previous vision of citizenship, construed as a "status of social integration". In the *Dano*, *Alimanovich*,²³ *Garcia Nieto*²⁴ judgments, the Court made clear that a citizen who is not economically active is not entitled to claim social benefits.²⁵ The reasoning of the Court changed at that time.²⁶ Whereas, previously, the principle of free movement was the starting point, which led to the application of the principle of equal treatment with nationals of the host state, the Court now started from the limits to the right of movement and first determined whether residence is lawful under the conditions laid down in Directive 2004/38,²⁷ otherwise, equal treatment does not apply. This change in the starting point of reasoning is fundamental. Under the directive, the condition for legal residence, for stays of more than three months and less than five years, is to have sufficient resources and comprehensive health insurance, which is generally not the case when you are not a worker. By denying application of non-discrimination guarantees to citizens without sufficient resources and by consequence without residence right, the Court established a class

of "illegal migrants" living unlawfully in other Member States, since citizens who are economically inactive automatically lose their residence rights and equality of treatment with nationals. All these cases concern the same type of non-contributory benefits that cover subsistence costs and can be granted by the host state. They all reflect the ongoing societal debate on whether so-called "poverty immigrants" should receive welfare entitlements.

However *Dano* and the following cases reinforce the state defensive dimension by insisting on the objective of the Directive consisting in "preventing Union citizens (...) from becoming an unreasonable burden on the social assistance system of the host Member State".²⁸ In other words, the Court has now turned its attention from the individual rights towards their limits. This new jurisprudential orientation, tinged with a certain deference towards political European and national actors, has the declared ambition of reinvesting them with the determination of the political and above all social scope of citizenship. The Court also departs from the assumption underpinning previous case law, according to which the establishment of Union citizenship reflected a certain degree of transnational solidarity in the social sphere. Now, responsibility for indigents is allocated to the state of origin, and it means that the ultimate realm of solidarity remains nationality, defined within state borders.

Conclusion

Two important points emerge and should be highlighted. Firstly, the border in this context continues to exist between Member States. The Court, by holding that, bridges the gap between the different categories of EU movers and European citizens: the economically active mover who meets no border, and the economically inactive one, whose rights depends on nationality and who lost residence rights. In other words, it is no longer primary law that governs the limits resulting from secondary law, but rather the limits that condition the recognition of constitutional freedom of movement and residence. The principle of equal treatment, previously a fundamental principle of primary law, seems to be downgraded to the status of secondary law. From "principle", it becomes "a right" and only "a right which finds a specific expression in the Directive",²⁹ the specificity being its recognition provided that the situation does not fall within the exceptions and limits provided for by the Directive. In other words, it is a right to discrimination on the basis of the Directive which the Court enshrines to the detriment of the inactive. The resulting sophistication of control leads to a re-categorization of citizens between the "pure" working population and the new category of "non-working population" and assimilated (job seekers, students, etc.), which also amounts to reversing the overall approach of the citizen aimed at convergence

of statuses to return to a categorical approach of the beneficiaries of Union law. This case law is proof of the resistance to the "market paradigm of citizenship".³⁰ It shows that economic participation rather than social membership is the dominant axis around which the regime of mobility and equal treatment is construed in EU law. This is another boundary than a physical boundary between peoples, but it can be much more dangerous to the objective of integration underpinning EU construction.

Secondly, it shows that the Court itself considers and at least takes into account that the ultimate realm of solidarity remains nationality. The Court restates indeed what Spaventa qualifies as "the centrality of the national belonging".³¹ Where solidarity is concerned, it seems to be intrinsically linked to nationality and therefore inevitably leads to the re-establishment of borders and the separation of peoples.

If the Court has become more alert to Member States' concerns it is also because the legitimacy of its judgments was at stake. However, it has to be said that national welfare state still performs also as an essential legitimizing function for states. In addition to that, it must be kept in mind that the competences of the European Union in the social sphere remain limited.

Actually, the ECJ had been able, through the extensive interpretation of primary law until the mid-2000s, to give states the feeling that the construction of a European social citizenship was being carried out in disregard of their competences. Derived rights, which the Union judge had deducted from EU-citizenship, were necessarily accompanied by interference in the field of social, education and health policies, even though the Union legislator had only limited powers in these areas. Ultimately, this led to the creation of ever greater obligations for Member States in an area which undoubtedly involves a society's choice as to its policy of redistribution of national resources and where. Because of the intensity and scope of the control exercised by the European judge, the state was unable to defend its political choices. The positions reached by the Court prior to the *Förster*.³² ruling thus undeniably carried the risk of "neglecting the collective dimension of social solidarity",³³ the definition of which still seems impossible to determine at a European level.

These judgments are proof of the Court's deference, as well as that of EU legislators, to the Member States' autonomy to determine the circle of individuals, limited to nationals, enjoying the solidarity benefits. Finally, nationality and borders reappear since free movement involves persons and not only goods. European mobility is probably the greatest achievement of European integration but offers the same weakness as any mobility: the economic one is welcome, but the one who has no economic value is not, even inside EU territory.

Notes and Sources

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- 4 Articles 28 and 30 of the TFUE.
- 5 Case 24/68 *Commission v Italy* (Statistical Levy case) [1969], emphasis added.
- 6 Article 26, TFUE.
- 7 Case 175/78, [1979], para 10.
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- 9 Case C 287/05 *Hendrix* [2007].
- 10 Case C-363/93, C-407/93, C-408/93, C-409/93, C-410/93 and C-411/93, *Lancry*, [1994] para 27.
- 11 See for example: Case 495/93 *Simitzi* [1995]; Case C-72/03, *Carbonati Apuani* [2004]; Case C-161/09 *Kakavetsos-Fragkopoulos* [2011].
- 12 Case C-200/02 *Zhu and Chen* [2004].
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- 14 Case C 34/09 *Zambrano* [2011] confirmed by Case C-165/14 *Rendón Marín* [2016]; Case C-133/15 *Chavez-Vilchez* [2017]; Case C 82/16, *K.A.* [2018].
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- 16 Discrimination on grounds of nationality may be based only on the exceptions specifically provided for in the Treaties relating to public policy, public health or public security and the exception relating to the free movement of persons concerning employment in the public service (48.4 TFEU).
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The Label 'Refugee' and its Impacts on Border Policies

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In this paper the authors adopt a constructivist approach to explain the efforts of reborderisation following the so-called 'Refugee Crisis' unfolding in the European Union after a sharp influx of refugees in 2015. One of the core principles of the European Union, the freedom of movement, is heavily challenged, through the perception of security threats and economic burden that is associated with the arrival of people seeking asylum in large numbers. Through a discourse analysis centring around the label 'refugee', which experienced a shift in meaning, this paper aims to display the driving social force that catalysed political actions to reintroduce borders between European Union Member States as a tool to recreate the illusion of control over the influx of people. Germany and France, as pioneers of the principle of freedom of movement in Europe, serve as empirical case studies for the efforts to reinstate control through reborderisation.

Introduction

The Refugee Crisis also known as the Migrant Crisis or the Migration Crisis—depending on inadvertent or wilful muddling of these terms—refers to a period of time in 2015 and 2016 when human migration from Asia and Africa towards Europe became a hot topic of discussion. The rise of a controversial discourse began in April 2015 with the tragic sinking of five boats in the Mediterranean Sea carrying nearly 2000 individuals who had hoped to reach Europe. This incident resulted in a sharp rise in attention towards human migration, as well as an international media hype and, ultimately, a mixture of regional and national debates vis-à-vis immigration, identity and security in most of Europe. What made the Refugee and Migrant Crisis (RMC) such a phenomenon was not the sheer numbers of individuals making their way to Europe, nor the seemingly ceaseless casualty reports it generated, but first and foremost the context in which it developed. Already in 2015, sensitivities towards foreigners—especially those of Muslim faith—were

heightened in most of Europe. By then, the continent was attending to the complexities of the increasing frequency of Islamist-linked terrorist attacks since 2006, the 2008 financial crisis, the Greek debt crisis of 2010, the Crimea/Ukraine crisis of 2014 and the increasing support for right-wing, nativist political parties agitating European Union politics (European Union Terrorism Situation and Trend Report 2018). As Professor Claudia Postelnicescu (2016) stated, Europe, facing the RMC, was “at a crossroad, divided between the need to remain faithful to its core democratic values and freedoms, maintaining an area of freedom and justice and the need to protect its citizens against the new terrorism and the rise of nationalistic leaders and parties that require less Europe and more power back to the nation states” (Postelnicescu 2016). No freedom, however, has since been more challenged by this migration influx than the freedom of movement within Europe's internal borders as established by the Schengen Agreement.

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For a few states, the reintroduction of what should in theory be temporary border controls between European states has become a new status quo since 2016. Two main trends for reborderisation have emerged: controlling the flow of the RMC (Germany) and countering terrorist attacks (France). Both inherently linked trends with the result of challenging the principle of freedom of movement are connected to the label 'refugee,' a label that not only sparks fear, disdain and rejection from segments of the public but also fails to differentiate between the diverse identities of individuals who enter Europe. While some fall under the Refugee Convention definition of refugees (UN General Assembly 1951), many are loosely linked together by the term 'migrant,' as that is the only characteristic that connects their journey to Europe. The newly constructed label refugee often combines all people entering Europe from the Middle East and Africa, without differentiating the broad range of backgrounds and motivations for migrating. 'Refugee' has become the new catchword for a potential danger that goes beyond the actual person in dire need of humanitarian support. As such, the frequent portrayal of these 'refugees' as security threats makes border security a tool with which to regain control over this perceived security threat.

While the media focus on the RMC arguably slowed down with the closure of the Balkan route and the implementation of the EU-Turkey deal in March 2016, which stemmed the tide of migrants entering Europe, and most recently with the respective border closures due to COVID-19, the immigration, identity and security debates remain to this day (Neske 2018). Albeit arguably not in the centre of public attention, the label 'refugee' remains an argument adduced in favour of keeping borders closed in the Schengen Zone. As Nail (2016) describes, recent global developments have led migration and terrorism discourses to feed off each other by relying on the same imagery of violence, danger, and warfare (Nail 2016). Consequently, it is not the aim of this article to debate whether the events of 2015/2016 merit the title of "crisis" be it migratory, humanitarian or other, nor is it to seek out the exact timeline of this so-called crisis. The goal of this article is to understand some of the elements which have led France and Germany to perceive the events of 2015 and 2016 as a danger to national security thereby revoking one of the core founding principles of freedom of movement that the European Union is built on. This paper thus sees the reintroduction of border controls rather as a tool to recreate the illusion of control over the perceived threats associated with the label 'refugee'.

In more detail, this paper argues that the label 'refugee' came about through a temporary consensus of the meaning of the word 'refugee' within the discourse that emerged as a result of the RMC in 2015/16, which motivated political calls for reborderisation. These measures often occurred in contradiction to European-

wide legal provisions encoded in the Schengen Borders Code, the Treaty of the Functioning of the European Union and the Dublin System. In order to display the connection between the label refugee and border policies this paper is organized in three parts. First, it will outline the legal framework of the European Union regarding freedom of movement, migration and refugees. Secondly, it will delve into the meaning, or the connotation, of the label refugee, tightly connected to signifiers such as security threat, economic burden, and cultural disturbance, through a brief discourse analysis. Lastly, by outlining the historical and recent developments in both Germany and France in context to border policies, and their respective shift in perception of the label 'refugee', we aim to display how the label refugee in the public and political narrative has assisted France and Germany in taking on the same course of action: reintroducing borders controls. France and Germany are here chosen as case studies as they have pioneered the notion of freedom of movement within the context of the Schengen Zone and the EU which now stands challenged by the RMC.

The Concept of Freedom in the Works—the Schengen Zone challenged by reborderisation

In the early 1980s both France and Germany pioneered the notion of freedom of movement for "persons, services and capital" amongst EU Member States in what came to be the Schengen Agreement of 1985, building upon the Treaty of Rome of 1957 (Treaty establishing the European Economic Community 1957). The Schengen Zone (Schengen), refers to an area comprising 26 European countries, all of which belong to the EU with the exception of Norway, Iceland, Switzerland and Lichtenstein. The distinction between external borders of Schengen versus its internal borders is key to understanding how movement of goods and persons throughout is monitored. Once having been approved by an official point of entry into the area, any individual or item, irrespective of nationality, may cross any internal (i.e. national) borders within the delimited geographical zone without being subjected to further checks. By adopting Schengen, nation-states give away a portion of their ability to control the human flows within their territory by moving all their border control endeavours to a jointly managed organisation that patrols the external borders of the zone. The lack of internal border controls within Schengen allows individuals a wide array of countries from which to enter Schengen; some of which may have more lenient entry provisions and/or fewer resources to provide the level of control desired by other ratifying nation-states. As such, this agreement has raised concerns over the securitization of national space vis-à-vis the monitoring of human movement.

Patrolling human movement with Schengen depends largely on a visa-based entry system. Naturally, issuing

visas is not a fool-proof solution to human migration, as irregular entries through sea and land routes bypass legal procedures and are hence impervious to official border controls. Indeed, while there has been a global trend to increase security in a post-9/11 world due to fear of illegal migration, terrorism and smuggling, international levels of illegal entry have gone unabated despite extensive efforts (Diener and Hagen 2012, 64). Throughout the RMC, for example, some men and women determined enough to enter Schengen found themselves subjected to increasingly creative smuggling practices such as Jet Ski trips from Morocco to Spain, parachute jumps from Turkish cargo flights, and in some more inventive instances, "some kind of self-made submarines" (UNHCR, 2017, 44). These imaginative and often precarious means of transportation are the end result of a pan-European system to further deter human migration by leaving asylum-hopefuls with limited options when entering Schengen. In order to address the worries surrounding freedom of movement throughout the area, additional provisions have been set in place to standardise the entries in and between Member States.

In 1999, the European Commission adopted the Common European Asylum System (CEAS), expecting EU Member States—and therefore the vast majority of Schengen states—to grant asylum to individuals who are deemed refugees according to the 1951 Geneva convention on the protection of refugees. It should be clarified that an asylum seeker to the EU is by definition someone who claims to be a refugee but whose claim has yet to be evaluated. As such, someone is deemed an asylum seeker for so long as their application is pending; hence not every asylum seeker will be recognized as a refugee, but every refugee is initially an asylum seeker.

The CEAS is responsible for the development of the Dublin System, which establishes that the Member State responsible for the examination of the asylum application is the first country—usually either Italy or Greece—in which the asylum-hopeful has first entered the EU (European Union, Council Regulation 2003). The reception and protection of applicants are viewed as a burden on receiving countries due to financial, administrative, social and political implications (CEASEVAL, Wagner, Perumadan, and Baumgartner 2019). This mechanism results in portal countries being significantly more impacted by migration to Europe than other countries creating an uneven bureaucratic pressure on those receiving more asylum applications than others merely due to their geographic positioning, such as Greece and Italy. Pries (2019) called this systemic inequality "a mechanism of organised non-responsibility" between Member States, and the minimisation of this practice is perceived as a pressing issue in the further elaboration of the Dublin System (Pries 2019, 4).

The lack of solidarity between the Member States manifested itself in the European Court of Justice Case that ruled against Poland, Czech Republic, and Hungary for Noncompliance with Migrant Relocation Obligations on April 2, 2020, suggesting a failure of the countries to respond to the emergency situation characterised by a sudden inflow of nationals of third countries and providing relief especially to Greece and Italy when faced with the exceptional burden of experiencing the highest numbers of asylum seekers throughout the European Union (Judgment of the Court [Third Chamber] 2 April 2020).

For the asylum seekers themselves, this first country of entrance clause means that their individual agency—that is the ability to decide where they actually want to go and wish to reside—is legally immaterial. This is especially problematic when taking into consideration the evidence of varying levels of treatment towards asylum seekers amongst Member States by both the UNHCR and the European Council on Refugees and Exiles, with some levels, bordering on unlawful negligence (Dublin Regulation 2008). As such, there is a higher sensitivity towards "asylum shopping" or "secondary movements" of asylum seekers within the EU. While not a new practice, the sheer numbers asylum seekers in the RMC has brought this issue to the fore of political debates. Secondary movements refers to the act of leaving the original country in which they arrived and had begun the process for asylum recognition according to CEAS regulation, to another Member State in which they plan to also seek legal protection (CEASEVAL Wagner, Perumadan, and Baumgartner 2019). The decision to do so is driven by a multitude of factors such as reception standards, the location of a diaspora, the wish for family reunification, the ability to speak the national language or, more simply, the desire to reside in one place rather than another. As of yet, there are no legal punitive consequences for secondary movement of asylum seekers, nor are there reliable data on the scale of the practice. In all likelihood, secondary movement offenders are likely to be simply returned to their first country of entry if caught. To this day there is no overarching system that would prevent asylum seekers from being moved from state to state—in or outside of the EU—resulting in the potentiality of asylum seekers being returned to unsafe grounds or their country of origin (European Parliament 2016). As such, there is a significant enticement for refugees and migrants arriving on European soil to avoid registering in portal countries and push onwards illegally.

According to the European Parliament more than 2.3 million illegal crossings were detected in 2015 and 2016, challenging a CEAS that was incipiently created to handle a small number of refugees and migrants (EU Migrant Crisis: Facts and Figures 2017).

Regional failure to create the much desired policy coordination, especially when faced with such trying times

as the RMC, resulted in open discontent and a divide in the internal political discourse of the Union. Ultimately, it acted as a catalyst for the reborderisation of the Schengen Zone, leading previously abiding Member States to derogate from the Schengen Agreement to focus instead on national efforts to contain and control migration within their sovereign space; thus, acting against the norm of freedom of movement codified within the European legal documents (European Parliament 2016)

While discouraged, reintroducing border controls along internal Schengen borders remains within the rights of Member States. Article 25 *et seq* (25 to 35) of the Schengen Borders Code provides these sovereign Member States with this possibility, "in the event that a serious threat to public policy or internal security has been established" (Temporary Reintroduction of Border Control, European Commission, 2019). Making use of these articles is always meant to be a last resort, proportional and—more importantly—short-lived. This was reiterated in 2017 when the European Commission published a proposal for an amendment to the Schengen Borders Code giving Schengen states greater leeway when addressing threats to national security (European Parliament 2016).

Since 2015, however, border controls activities throughout the internal Schengen borders have become a problematic status quo for many Schengen-abiding countries. Between September 2015 and December 2019, according to the European Commission (2019), border controls have been reintroduced and prolonged almost 50 times (European Parliament 2016). Prior to the RMC, contrastingly, there had been only 36 cases of reintroduced border controls since 2006, most of which were linked to ensuring the safety of high-profile international meetings. Since, however, the "serious threats [from the RMC and instances of terrorism] compelled some Member States to prolong reintroduced border control several times until the exhaustion of the legal time frames" supported by Article 25 *et seq* (European Parliament 2016). The reintroduction of border security within the Schengen zone, especially exemplified by its two founding countries, is worth exploring. After all, the role of external state borders as demonstrated by Diener & Hagen (2012, 64) is intrinsically linked with its perceived security, which leaves one to ponder the implications of this increasing borderisation. If deemed safe to do so, a "good" border region may be viewed as permeable to varying degrees, equipped with open communications, formal demarcation agreements, standing boundary commissions, accessible transportation links, and a minimal military or police presence while remaining capable of stopping harm from entering such as terrorism and drug trafficking (Diener and Hagen 2012, 66). Indeed, the Schengen zone in its original format was made up of predominantly "good" borders.

Some border theorists have argued, moreover, that a permeable border is simply a remaking social of categories of belonging, one linked with the idea of citizenship and otherness (Anderson 1997; Diener and Hagen 2012, 83). Such a logic would further the dichotomy between the perception of terms such as immigrants and refugees as negative and terms such as cosmopolitans and global citizens as positive. This is, of course, a generalization, as there are different ways within any given society to perceive refugees. A refugee is legally defined by the 1951 Refugee Convention as a "person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country" (UN General Assembly 1951). Even though this official definition carries important signifiers such as 'persecution' and 'well-founded fear' that could provoke an empathic reaction and shape the discourse through its narrative, the development of the refugee discourse nowadays has taken a different turn. Following the Second World War, the implications of persecution due to race and religion had moulded contemporary reality. Nowadays, however, as we demonstrate, the label 'refugee' evokes a different reaction within the public opinion and narrative, which is no longer predominantly empathetic, but rather defensive and/or cautious.

Naturally, the RMC did not only involve refugees. Not all who were making their way to Europe during 2015 and 2016 did so out of fear from being persecuted. During both years, the top nationalities applying for asylum to the EU were: Syrians, Afghans, Iraqis, Pakistanis, and Nigerians. All of these countries have their own unique turmoil and not all who left these did so out of purely fear-based reasons. While many undoubtedly fell under the Geneva convention definition of refugees, others fell under the description of an economic migrant, "[a] person choosing to move not because of a direct threat of persecution or death, but mainly to improve their lives by finding work, or in some cases for education, family reunion, or other reasons" (UNHCR 2019).

Moreover, the term economic migrant implies that such an individual aims to join the workforce of its receiving country and become an often-times permanent member of the local society. These two elements, however, are not well received by those who fear not only that these migrants might "steal" available jobs, impacting their own or their peers' chances of employment, but might eventually come to affect the local culture with their own diverse backgrounds.

Using these terms correctly is vital to understanding the reality of individuals, especially for refugees as it creates confusion and takes away attention from these people who require—and are entitled to—recognised legal protections. By merging these two terms, the

fear that stems from migrant arrivals are transferred to refugees. For the purpose of this discourse analysis, this paper will focus on one predominant narrative within some societies that tend to perceive refugees negatively.

The Refugee Discourse: An Interregnum of Meaning

Public discourse is a constructed set of truths through narratives created by social norms and values, by representations of reality and social identity and by national and supranational legal norms. Discourse analysis theory, rather than negating the presence of facts, will gain understanding of its meaning correlating the linguistic, social, political and economic input within a discourse and thus become understandable. Jørgensen and Philipps define discourse as a "form of social action that plays a part in producing the social world—including knowledge, identities and social relations—and thereby in maintaining specific social patterns" (Jørgensen and Phillips 2002, 5). Thus, discourse is not only a reality-creating tool but also a catalyst for action within this reality. Therefore, if different discourses catalyze different actions, those actions may enter into conflict. In that sense, discourse may also be understood as a guideline or instructions on how to act in a specific situation. As every situation is unique in regard to its context, the guidelines or instructions are most likely always interpreted differently, accordingly to the context. Thus, discourse leads to change in the social world, as through the changing guidelines or instructions it forms identities, but also organizes behaviour and relationships according to these identities. An example of this is the national discourse that forms the collective identity of society within a nation-state around distinct cultures. Further, it creates instructions on how to relate to other nations or other groups such as migrants. Kølvråa argues that discourse then also organizes "certain objects as representing the category 'national culture' and interaction with these will be subject to other rules—other standards of 'appropriate behaviour'" (Kølvråa 2012, 20).

According to Laclau and Mouffe's interpretation of discourse theory, discourse offers or "establishes a closure, a temporary stop to the fluctuations in the meaning of the signs. But the closure is never definitive" (Laclau and Mouffe 1985 [2001], 21). On the one hand, it means that meaning or a 'truth' within a reality is constantly changing and transforming but a discourse establishes an interregnum in this constant change (Laclau and Mouffe 1985 [2001], 113-4). On the other hand, it allows observing and understanding social phenomena through discourse analysis only temporarily and insists on a constant re-evaluation and observation of the transformation of meaning.

The representation of an individual or a group of people within a physical and abstract space such as

society within a territory plays a significant role in how this individual (or group) is perceived and understood. However, this is merely one side of the discursive power of representation, as it also has a profound effect on how an individual (or group) positions itself on an emotional level within a physical or abstract space. Physical space can be understood as territory, "based on two components: a frontier that separates outside territories and the lands inside" such as the nation-state (Middelhoff 2015, 1). Thus, the societal and historical context of each nation-state plays a crucial role in how representation is perceived and reproduced in the public. Consequently, frames and labels have to be evaluated in the context in which they are constructed and produced and are not interchangeable nor generalizable, but highly subjective, arbitrary and unstable interregnums of meaning within certain situations. The RMC, for example, presents such an interregnum of meaning in the refugee discourse in both Germany and France respectively. To understand political actions to close borders during the RMC in France and in Germany as part of a response to public discourse of refugees, it is helpful to explore labels and frames as cornerstones of public discourse in more detail.

Labels creating Identity

Part of understanding an identity means understanding how one or many may fit in with other groups of people which closely links to its social construction. Creating a narrative and imposing it on refugees happens within the imagination. Metaphorically speaking, through the creation of an imagined 'space' within their imagination the population of a sovereign regime is able to homogenize and index flows of people that are in no way homogeneous in their identity, and thus create a homogenized narrative that is then imposed on the migrants. Roger Zetter identifies the 'label' refugee as a 'convenient image,' one "which is driven by the need to manage globalized processes and patterns of migration and forced migration in particular" (Zetter 2007, 172). Thus, the label refugee adheres an interpretation that carries a narrative, as a society has a very clear image of the story of 'a refugee'. The homogenous refugee label stands therefore in contrast to the actual very heterogeneous identities due to different memory and imagination of homeland. Zetter argues that "we deploy labels not only to describe the world but also to construct it in convenient images" (2007, 173). He further argues "that labelling was not just a highly instrumental process, but also a powerful explanatory tool to explore the complex and often disjunctive impacts of humanitarian intervention on the lives of refugees" (2007, 173). In other words, supposedly knowing their story seems to suggest knowing what they need, where they belong and who they are. In that sense, labels always carry an agenda. Further, "[t]hey are the tangible representation of policies and programs, in which labels are not only formed but are

then also transformed by bureaucratic processes which institutionalize and differentiate categories of eligibility and entitlements. In this way, labels develop their own rationale and legitimacy and become a convenient and accepted shorthand" (Zetter 2007, 180). The argument is about the tool of a regime of territorialization to control social flows, creating a label that supports the separation of the legitimate and the rejected. Therefore, the label refugee acts as a tool to not only separate from non-refugees, but one that may be used to create a binary representation of identity; either one belongs in a certain space or one does not.

This us-versus-them connotation in turn triggers a feeling of apprehension. Zembylas identifies these "[f]eelings of resentment and hatred, [which] are distributed through discursive practices which come to signify the danger from mixing with them; they threaten our identity and mere existence. Thus, it is emotion discourses and practices that work to constitute who the 'victims' and the 'victimisers' are" (Zembylas 2012, 470).

Drawing on Ahmed (2004), Zembylas observes that "emotional encounters with others create boundaries or deconstruct such boundaries" (2012, 469). Thus, the label 'refugee' is connected to a person out of its place, outside of its sphere of belonging such as a nation-state and relocated in someone else's sphere of belonging. The notion of belonging is entangled with a defined space or territory and the label 'refugee' suggests a transgression of this territory; a transgression apt to trigger resentment, fear and/or outright aggression.

While this transgression happens within an abstract and imaginative realm, the response that was witnessed since 2015 following the RMC was tangible. It resulted in calls for political action to securitize against this constructed threat and ultimately the closure of national borders. Recently, the Schengen-based freedom of movement has been interrupted by many of the ratifying Member States. Germany and France are here used as prime examples of the two identified reasons given for reintroducing border controls: in response to terrorism and to control the migrant flow of the RMC. In both instances, 'closing' the borders was encouraged by popular demand in order to regain control, or at least the perception thereof, demonstrating the change in discourse towards refugees and migrants. This next part will display empirical findings of France and Germany and their respective political responses to the perception of refugees.

The Fear of Terrorism—Empirical Findings in France

Since late 2015, there have been two main security reasons cited by Schengen countries when reintroducing "temporary" border controls (Luecke and Breemersch 2016, 6). The first, linked with the rise in

terrorist incidents throughout the continent, is closer to the traditional idea of state security in a post-9/11 world. This reason was utilised by France (2015-2016) and Belgium (2016) in the aftermath of terrorist attacks (Luecke and Breemersch 2016, 7). Many Schengen states, such as Austria, Denmark, Germany and Sweden (as well as Norway, a non-EU Schengen state) justified their rebordering beyond the two-year limit on the basis of Article 29 of Schengen Borders Code (SBC), citing "serious deficiencies in the carrying out of external [Schengen] border controls", forcing them turn inwards and unto themselves. No doubt also influenced by Article 29, France is, however, the only Schengen country to have restored—and maintained—control over part of its internal borders with the view of protecting itself from persistent terrorist threat (Hamon and Fadier 2018). It made use of the SBC to bring back checkpoints ID verification to try apprehending the involved parties and keep further potential threats from coming in.

These security measures have long gone past the traditionally allocated time due to not only a two-year state of emergency but also tangible legislative reforms. France claimed it was lawfully enabled of doing so in accordance to article 27 of the SBC, which allows for a derogation from the fundamental principle of free movement of persons upon "the existence of a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society" (European Parliament 2016). Following the November 2015 attacks, France initially made use of Article 25 to reintroduce temporary controls along all of its internal borders continuously—with the only brief exception of July 15th 2017 to November 1st 2017—each time citing its terrorist attacks for the reintroduction of controls. It also made use of Article 22's insistence on proportionality of response, claiming that these were indeed exceptional times and that their actions were proportional to the threat at hand, in addition to being "exceptional" and "necessary" as required by Article 25 itself (European Parliament 2016).

It must be added moreover that this proportionality element was not so much based on the rebordering efforts being necessary to complement the ongoing counterterrorism state-efforts per se, so much as being deemed *necessary* in sight of believing terrorist attacks more likely during these times (Hamon and Fadier 2018). This distinction between a state mobilising in an immediate aftermath against actual attacks—as supported by the SBC—versus choosing to remain in a state of anxiety towards these incomers embodying potential threats while having no actual end date in sight is key.

Prior to November 2015, France had only ever made use of Article 25 *et seq.* on nine separate occasions since 2006, three of which were in reaction to brief civil society protests within the country, and the

remaining ones linked to high-level international summits (Regulation (EU) 2016/399). Following the attacks however a state of emergency was declared. It was then renewed six times by 2017, after which President Macron replaced it with the highly contested new counterterrorism law. Not only does this explain the small gap in temporary border controls between July and November 2017, but it also entails a new era of security within the country, a sort of return to pre-Schengen times. No longer are the "temporary" border controls emplaced due to specific terror events, such as the ones in Paris on the 13th and 14th, 2015 and July 14th, 2016 in Nice; they have since been vaguely justified under the umbrella of "persistent terrorist threat" to the country (European Parliament 2016). It should be noted that France's decision to continue border controls past the maximal six-month period elaborated in the SBC stands in outright violation of Article 25§4 (Hamon and Fadier 2018).

While Article 29 of the SBC could have allowed border control extension up to two years, France never received the necessary European Council recommendation to bring it into effect. Even with this disregard for EU legislation, France's actions have not incurred a legal response. France, in fact, is not unique in choosing to retain its borderisation efforts. Its decision of acting independently from the SBC highlights a major problem Schengen faces to this day: how will the EU break away from this newfound borderised status quo and put a stop to the systematic renewals of controls along internal borders?

This perception of persistent terrorism and the resulting new counterterrorism law—similar to USA's Patriot Act—are now a permanent continuation of the measures put in place during a State of Emergency. They ensure "daytime military patrols in major cities, a major investment ramp-up into domestic intelligence collection and the creation of a new anti-terrorism task force [and] grants police and investigators extensive powers to raid, detain and question terrorism suspects—making many special provisions permanent" (Vinocur 2017). These latter "special provisions" to control and outright exclude migrant entrance into the country have been highly criticized for discriminating against France's established Muslim minority and promoting Islamophobia at large (Vinocur 2017).

It should be added, moreover, that Muslim-focused racial profiling in France is not intrinsically linked to the RMC, nor is it limited to the aftermath of recent terrorism trends, but is rather the fallout of French migration and colonial history. Like most of its European counterparts, France has a rich history of immigration from its former colonies. By the 21st century, nearly six percent of the country boasted foreign roots, a portion which has remained constant since 1975 (Popkin 2020). While some immigration came from neighbouring European states, a large majority of them migrated from France's

former colonies, notably Muslim Northern and Western Africa. In 2019, this has come to mean that, while France does not collect census data, an estimated nine percent of the French population practiced Islam; the highest percentage in Europe (Popkin 2020). This religious minority, however, is known to experience unfavourable economic and social conditions. Like many marginalised migrants populations, they experienced "higher unemployment than the rest of the population; a higher incidence of accidents on the job; housing problems, such as being isolated in large, high density housing projects on the outskirts of big cities that were slowly deserted by native French families; problems at school; and high levels of crime and unrest" (Laurence and Vaisse 2012, 31). It would be inaccurate to speak of a ghettoization of France's immigrant populations. While some *banlieues* or *cités* might have a high percentage of Muslim dwellers—and indeed are discursively associated with them—no single area is purely inhabited by a single ethnic origin or religion (Laurence and Vaisse 2012, 36).

This sensibility towards those of Islamic faith throughout the country while not new became blatantly apparent in the aftermath of the November 2015 attacks. It peaked when a Syrian passport was found near the body of one of the aggressors. Unsurprisingly, this led many to link the threat of Islamic-extremist terrorism to the ongoing RMC despite all of the attackers holding either French or Belgian Nationality (Farmer 2016). The passport, in fact, had been stolen and had belonged to a completely unrelated party, an asylum-seeker who had arrived in Greece a few weeks earlier. Even so, the affiliation remained, and while not all incomers involved in the RMC originated from Syria (only 30% of them actually did), the discursive association of the RMC incomers with notions of religious-based violence and threats became an easy one to make (European Parliament, Eurostat 2018). Naturally, refugee perception in France is not merely linked to this one incident but stands testimony of years of discursive elaboration of a post-9/11 world. In a 2019 report to the European Parliament, it was demonstrated that public opinion, media coverage and political debate had jointly securitised the discourse on refugees, especially in rural France and right-wing political supporters (Fine 2019).

As was the case in many other states, a significant portion of the hype from the RMC was fuelled by far-right nativists, notably the Front National under Presidential-Candidate Marine Le Pen. Thus, the RMC was a convenient tool with which to drive forward their political platform. In September 2015, prior to the November Paris attacks and a few months past the Charlie Hedbo shootings, Le Pen stated in an election rally that the RMC was comparable to the barbarian invasion of the 4th century and that France "must immediately stop this madness to safeguard [its] social pact, freedom and identity" against this new prevailing

threat (Kent 2015). With the pre-existing stigma associated with France's Muslim population, linking the RMC with the need to reintroduce internal border controls was not a difficult task. It would be unfair, however, to blame this discursive association solely unto one political faction, no matter how loud. Indeed, similar securitised rhetorics have been known to be uttered by Former President Hollande who stipulated in 2016 that his country had "a problem with Islam" (Willsher 2016).

The representation of the RMC through various channels, such as the media and political rhetoric has fallen on fruitful grounds in France. This was the result of the country being historically and socially preconditioned to apply a homogenous social identity to a group of people such as 'the refugees', connecting them to violence and crime and disregarding their vastly different backgrounds, historicities and identities. This homogenous perception allows the right wing and populist political spectrum to utilize the rising public concern to drive forward their political agenda by offering a response to the public demand that goes beyond mere border controls.

A Shift in Perception—Empirical Findings in Germany

The second trend of reborderisation identified is linked with curbing the flows of refugees and migrants entering Europe not out of fear from religious zealotness but indeed to maintain order. It depicts a shift in perception and a heightening of sensitivity towards migration; viewing the influx of foreigners as threats to security and the economy, fearing unrest and drainage of state resources. This trend was perceived in the Scandinavian countries, Germany, and Austria as means of reducing or at least managing the influx of refugees and migrants (Luecke and Breemersch 2016).

Unlike France who made use of Article 25 *et seq.* of the Schengen Borders Code to reintroduce temporary controls along all of its internal borders because of terrorist threats, Germany reintroduced theirs as means of controlling the flow of refugees and migrants heading their way from the Balkan migratory route. Faced with unprecedented levels of asylum claims and illegal migration, from September 2015 onwards, the country reintroduced border controls, a measure that was prolonged eight times and is still in place today. While France increased its border control along all its national borders, Germany refrained theirs to merely one border: the one shared with Austria. This measure was recommended by the European Council as of May 2016 "to respond to the serious threat and to safeguard public policy and internal security resulting from the secondary movements of irregular migrants" (European Council 2018). It was similarly recommended to Austria, Denmark, Sweden and Norway. It is important to differentiate that this 'recommendation,' was not made due to the large-scale arrival of migrants

per se. Indeed, it could not in accordance with Article 26 of the Schengen Border Code which states that "a large number of third-country nationals should not, per se, be considered to be a threat to public policy or internal security". Germany's decision instead focused on mitigating secondary movement of asylum seekers with the EU (European Parliament 2016).

This heightened number of secondary movements during the RMC finds anchoring in the organised non-responsibility promoted by the Dublin System. It resulted in Greek and Italian authorities becoming overwhelmed and left with no choice but to allow—and at times blatantly encourage—arriving crowds to make their way to other EU states without identifying or registering them in accordance with regulations (Joannin 2016). To mitigate the effects of organised non-responsibility, and long before the RMC, the European Court of Justice had already ruled that Member States were allowed to manage asylum applications of anyone who had entered the EU via another state if said state had subpar asylum reception standards. Therefore, Germany receiving refugees and accepting asylum applications of persons who had entered the EU via another country was not a violation of European or national law. Indeed, Greece and later Hungary as prevalent countries of first entry, had been deemed inadequate in their services to asylum-hopefuls by the German courts and the European Court of Justice (Versteegh 2015).

Reborderisation in relation to RMC asylum control came about more predominantly in late 2015, early 2016 when some EU Member States re-implemented widespread ID checking along their borders. In Germany more specifically, Chancellor Angela Merkel made international headlines in August 2015 and again in September when she publicly announced Germany's readiness to accept 800,000 refugees into the country and adopted an open policy towards them (Joannin 2016, 3). This was especially geared towards Syrian nationals, as she stated in August 2015 that "Syrians can stay in the country while applying for asylum, rather than being turned back to the EU country where they first arrived" (McDonnell 2016).

Following the mass exodus during WWII hostilities, Germany has since adopted a *Willkommenskultur*, or welcoming culture, towards refugees (McDonnell 2016). This attitude, joined by the fact that the country has boasted Europe's biggest economy and a low unemployment rate for many years has resulted in many aspiring to migrate to it. McDonnell suggests that "some of the country's most prominent backers of refugee-friendly policies are industry groups, who have argued that migrants are needed to help fill a labour shortage [and as such] Germany has a relative bounty of social services directed toward migrants: Subsidized housing, education, health care, and so on, and a streamlined process for filing immigration paperwork"

(2016). This has greatly aided the widespread perception that Germany is a safe and accessible country whose liberal asylum laws act as a pull for new arrivals, a reputation bolstered over time by diaspora networks particularly from the Middle East (Trines 2017).

Anti-refugee narratives in Europe would put forth that Merkle's "we will manage" RMC-related statement encouraged and propelled the stream of asylum seekers coming to Europe, however, a study conducted by Ludger Pries (2019) suggests otherwise. He argues that "empirical evidence of the impact of Merkel's dictum on the actual refugee movement and decisions leads to a clear conclusion: there was no substantial, measurable impact of Merkel's 'We will manage' on the volume and reasons of refugees' decisions to orient towards Germany" (Pries 2019, 7). Nevertheless, Merkel received tremendous public backlash for her liberal approach to immigration and asylum seeker regulations. This backlash paired with falsely represented instances connecting refugees to violent attacks in the media supported the creation of a label 'refugee' that turned into ammunition for rebordersation efforts.

This phenomenon could be observed through the presentation of the attack in a Munich shopping Mall, the attack in the Berlin Christmas market and the sexual harassment attacks in Cologne on New Year's Eve. In all cases the first reaction of the media was to imply a refugee connection, often with a question mark that was overlooked and ignored by the public and political eye. The Huffington post suggested the men responsible in Cologne had arrived days prior to New Year's Eve as part of a new wave of refugees. Further along in the same article, however, the BKA (Federal Criminal Police Office of Germany) is quoted saying the suspects had long been under their radar for previous offences, rendering their arrival timeline questionable at best (Kosch 2016). Furthermore, the suspects were later identified as originating from North Africa, making them unlikely to qualify as refugees. Thus, they should not be referred to under the same legal migration designation. Similarly, the *Spiegel* also advanced that refugees were among the suspects while also stating a few lines further that there was no actual evidence that would prove the offenders to be refugees (Übergriffe an Silvester 2016).

While these might be merely two examples, they remain powerful ones. Even if both rectify their initial assumption, the immediate connection to refugees as an emotional reaction to a violent incident lingers with the public perception. This is not to say that there have not been incidents including refugees and violence against other refugees and/or non-refugees in Germany; indeed it would be false to suppose as much. These examples simply attest to the discursive label attributed to refugees and supports the widespread connotation that every person that appears to have a migratory background falls under the 'refugee'

umbrella. This negative and unruly perception of 'refugees' in turn leads to them being scapegoated should any future incidents occur. Incidents against refugees are often just dismissed by arguing that it was a separate incident carried out by extremists, which are not perceived as a recurring and growing national issue and thus not acknowledged as a national recurring and growing trend (Middelhoff 2015). The uncertainty of the public of being unable to grasp the 'grey mass' that is constructed through that narrative of the label refugee thus translates into an oversimplified picture of the situation that allows making sense of a situation, however failing to grasp the intricacies.

Appadurai identifies this uncertainty as a "crisis of legitimation" (Appadurai 1996) of the nation-state through migration, arguing that "states lose their monopoly over the idea of nation" (Appadurai 1996). One way of protecting the nation is the reintroduction of a physical space of the nation-state through borders. So, even though there was a transgressive accession of that space, transgression in the sense of "to cross a line, to step across some boundary or move beyond" (Wolfreys 2008, 3), through reborderisation, the notion of control, or at least the illusion of control is handed back to the sovereign regime.

The influx of refugees in Germany has also been met with increased Islamophobia. In 2013, for instance, the anti-immigration party, *Alternative für Deutschland* (AfD), was founded with its leadership claiming that the Islamic faith is incompatible with the German constitution. It championed measures to stop the flow of Muslim immigration into the country, stating that they could not integrate and would eventually remove—and replace—the existing population within the country's borders. Research evidence suggests many Germans hold negative perceptions of Muslims. In addition, since October 2014, xenophobic and anti-Muslim marches led by the Patriotic Europeans Against the Islamization of the West has attracted as many as 17,500 supporters. Hate groups are reportedly prevalent among them and some have characterized the movement as "pinstriped Nazis". Indeed, research evidence suggests many Germans hold negative perceptions of Muslims (Abdelkader 2019). In 2016, approximately 40 percent supported a Muslim ban on immigration and 60 percent believed Islam has no place in the country. A 2015 study found anti-Muslim sentiment to be pervasive—transcending income, education levels and political affiliation. It revealed that 57 percent of Germans view Islam as a threat, and 61 percent of Germans believe it is incompatible with Western values (Abdelkader 2019).

In 2017, Germany had approximately three to four million Muslims, nearly 5 percent of the overall population, representing the second largest Muslim population in Europe, after France. No doubt this statistic was affected by the one million individuals immigrated

to Germany from Muslim-majority countries such as Syria, Afghanistan, and Iraq and the subsequent chain-migration. For nearly three decades, Germany has maintained nearly 30 percent of all asylum claims in Europe demonstrating a pulling effect that has yet to be matched by any of its EU counterparts.

Like France, such anti-immigration discourses, however, are not limited to migrants and refugees being considered security threats. At times, they are referred to as a burden to the host society and/or something to be wary of. The latter was cited most frequently after the 2016 "Cologne attacks" in Germany, where "as many as 1,000 women had been sexually assaulted—groped, robbed, intimidated and separated from their friends—at Cologne's central train station on New Year's Eve" (Richards, 2016) by men of North-African and Arab origin. This attack was perceived by some as ultimate proof that the male migrant and refugee newly arrived to the country came "from countries where they have no respect towards women", proving themselves to be unlikely to conform to the local culture by "doing what they want, and taking anything they want" (Gümplová 2016). In response to the Cologne events, local authorities issued warnings to women to avoid certain places, towns barred migrants from entering swimming pools, thousands of police personnel were readied to patrol carnival marches, and pink security zones for women were proposed (Gümplová 2016).

For the refugees and migrants newly arrived into the country and for German citizens of North African or Arab origins, this turn of event was worrisome. While in summer 2015, masses of ordinary people greeted arriving migrants and refugees at the train stations, the *Willkommenskultur* seemed greatly diminished after the attacks, resulting in an increasing support for far-right parties in Germany. This came at a time when Germany had registered a sharp increase in vandalism of refugee facilities and asylum seekers' accommodations since mid-2015 (BKA-Statistik 2016). The 'Süddeutsche Zeitung', a German newspaper, counted more than 3500 violent incidents against refugees outside of refugee accommodations, including men, women and children, alongside attacks on volunteers helping refugees (Mehr als 3500 Angriffe auf Flüchtlinge 2017). The motivation for attacks on accommodations and on individuals stems from national socialist and right-wing belief systems, leaving one to wonder about the eventuality of many more unreported ones. Germany, it seemed, merely a few months after publicly opening its borders to Syrian refugees, was losing public support for Chancellor Merkel's initiative by calling instead for limits on immigration such as caps on numbers of incoming refugees, limits on welfare benefits, the return of economic migrants, and the control of borders.

But how can we understand such drastic developments that seem to step-by-step dismantle one of the core

values that the European Union is built upon: freedom of movement? The rising public concerns connecting the influx of refugees to terrorist threats and economic burden puts pressure on political actors. The oversimplification of the situation and the reduction of the large variety of different groups and individuals entering Europe to a few labels creates a discourse that ultimately is the platform for political actors to take action.

Analysis of Findings and Conclusion

The reception and accommodation of refugees in France and Germany was met with mixed emotions. For some, the RMC was met with tremendous public support and a positive attitude. For others the RMC equated concerns over security, resources and cultural differences; such notions were voiced by PEGIDA and the Yellow Vests movement to some extent, as well as political narratives stemming from the AfD and the Front National. Dissenting voices in both countries had clear expectations of their political leaders, containing and securitizing the refugee influx and thus ensuring national security. Ultimately, this came to be expressed through the reintroduction of border controls.

Germany and France, the two founding members of the EU and initiators of the establishment of free movement through the Schengen Agreement, have responded to the influx of refugees since 2015 in a similar fashion by accommodating these demands. Reaching this crucial step in responding to a perceived security threat through the arrival of refugees facilitated the representation of the RMC through various channels, such as the media. The label 'refugee' was redefined, connecting it to signifiers threatening national security, such as terrorism and violent attacks on the public, thereby triggering a discourse change in meaning and consequently a shift in the public reaction towards the new social identity of refugees. This label refugee is now being applied to not just refugees, but to every migrant with a foreign—and especially Islamic background. A perception was created that does not reflect reality, however, constructs a scenario in the public's imagination that presents a transgression of space and a threat to national security. In order to regain control over the transgression into the public sphere of belonging, the European Union witnessed a territorial response in closing the border—a tool to ease the mind of the people rather than to regain actual control over the perceived threat. Both France and Germany reacted in similar ways, though their respective paths to this response differed based on their societal and historical contexts. The basis for this development, however, can be found in the legal regulations that the European Union put in place, that have failed to create a coherent and appropriate framework to deal with the influx of refugees since 2015, and still fails to deal with the aftermath to this day.

The Schengen Agreement in combination with the Treaty of the Functioning of the European Union and the Dublin System provides provisions and guidelines on how to deal with an influx, or a crisis on a theoretical level. In practice, however, the provisions fail to adhere to national belief systems concerning the needs of their national spheres. These needs include demands for greater security concerning terrorism and economic burdens. In theory and within the legal provisions these norms ought to be diffused through their appeal to the Member States of the European Union. In practice, the legal norms of the European Union are rhetorically extremely vague, which leaves enough room for interpretation of the Member States to pursue their own interest. Thus, in a situation of conflict between the European Union legal frameworks versus a nation-state legal framework, instead of action for the greater good of the Union, the Member States act for their own benefit. This can be observed through the behavior of the Member States, resulting from the influx of refugees and the efforts of reborderisation in order to regain at least the perception of control and securitization of national spaces. It appears to be a mere perception of control rather than actual control when closing the border, as no policy or border control can ever be truly a match to human ingenuity—true for both asylum seeking and for terrorism.

In both cases, Germany and France the created identity of refugees was utilized by right-wing and populist political actors to drive forward a national and Eurosceptic narrative. Thus, Germany and France face common challenges. In both cases there is the tendency of Eurosceptic or Europhobic populist forces to draw political capital out of the refugee crisis in the domestic political arena. Right-wing populism is particularly prone to resort to this issue as immigration and borders touch the very heart of national identity and sovereignty respectively. Right Wing political groupings brought considerable pressure to bear in the run-up to the 2017 general elections in both France and Germany (Koenig 2016, 2).

It remains to be seen if easing the public's mind through border controls will result in a successful campaign of right-leaning and populist political narratives, or if it the public will move away from demanding border controls, either moving on to a different mode of regaining control, or the perception thereof, or resulting from a new shift in discursive understandings of refugees and migrants. Either way, representation of the situation will play a crucial role and will remain a key facilitator in how the public will perceive the situation and consequently react to it. The driving social force of public opinion is thus heavily influenced by representational tools such as labelling, which may be utilized or manipulated by political actors in order to further their agenda. Thus, moving forward when addressing the RMC, it remains crucial to understand the construction of the discourse

behind public demands, such as increasing border controls, in order to evaluate the significance of such tremendous political actions. France's and Germany's actions, however, are not unique in choosing to rein-vigorate its borderisation efforts, and indeed a major problem Schengen faces to this day has been how to put a stop to the systematic renewals of controls along internal borders.

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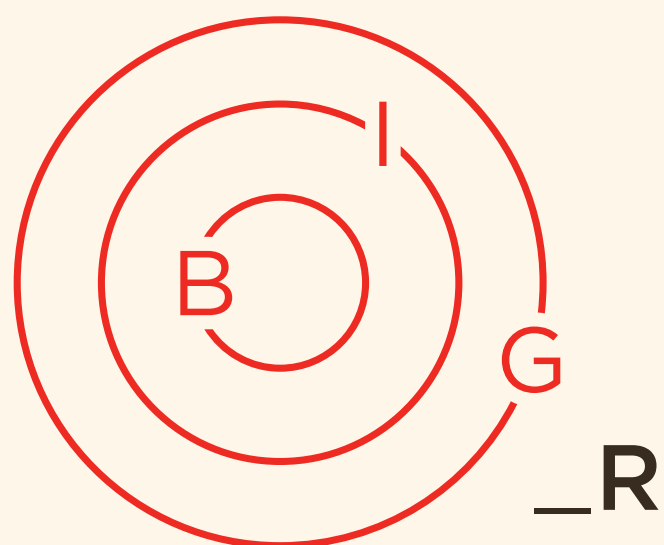
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ARTWORK



PHOTOGRAPHY

The Caravan

Guillermo Arias



Central American migrants traveling to the United States is a longtime phenomenon. Over the past decade, there's been a rise in the number of families and unaccompanied children crossing the US-Mexico border. Most of them, people fleeing extreme violence, insecurity and poverty coming from the Northern Triangle of Central America — Guatemala, Honduras, and El Salvador. But it was not until 2018, with its massive caravans and the attention of US President Donald Trump that they became visible.

Born out of the necessity of a safe passage through Mexico, where migrants are exposed to all kinds of abuse by gangs, organized crime, smugglers and even authorities in a perilous journey to reach the United States border. Traveling out in the open, as part of a large group of people that can't simply be grabbed or disappeared, assured them with some sort of protection to start their exodus.

The Caravan documents the journey of thousands of Central American migrants traveling in large groups of self-called caravans to the United States in hopes of a better life; the challenges they experienced during their journey through Mexico, the difficulties once they reach the US-Mexico border and finally, the struggle and desperation to cross by any means the physical border barriers to pursue their American dream.

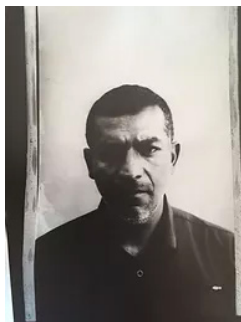


Photo @cameraminuteraberlin

About the photographer — Guillermo Arias

Mexican photojournalist since 1993. Currently based in Tijuana, a regular collaborator of the Agence France Presse (AFP). Worked for the Associated, from 2001 to 2011. Recently finished his personal project *el cerco* (*the Fence*), with the support of Mexico's Sistema Nacional de Creadores de Arte (SNCA) 2014-2017. Has been honored with several recognitions including the Prix Visa d'or News for his work *The Caravan*; Honorable Mention at the World Press Photo 2010, Contemporary Issues; Istanbul Photo Awards 2019 first place in Story News; POY Latam 2019 first place in spot news singles; Premio Nacional de Periodismo Cultural Fernando Benitez 2009 for the story "Los muertos de todos los días" (every day dead); among others. Has published two author's books *El Cerco* (2017) and *Vestigios* (2011), awwnnd collaborated with many others. Also, has participated in more than twenty exhibitions around the world.

Contact: www.guillermoarias.com [@GmoAriasC](https://twitter.com/GmoAriasC) [@guillermoarias](https://www.instagram.com/guillermoarias)

Photos in this portfolio have appeared in various media.





Above: Aerial view of Honduran migrants taking part in a caravan heading to the US, as they leave Arriaga heading to San Pedro Tapanatepec, southern Mexico on October 27, 2018.



Above: A group of Honduran migrants taking part in a caravan heading to the US, wait for a ride after leaving Santiago Niltepec heading to Juchitan, near La Blanca town in Oaxaca state, Mexico on October 30, 2018.

Next page: Aerial view of Honduran migrants taking part in a caravan heading to the US, resting in San Pedro Tapanatepec, southern Mexico on October 28, 2018







Above: Migrants — mostly Hondurans — heading in a caravan to the US, are seen onboard a truck as they catch a ride in Isla, Veracruz state, on their way to Puebla, Mexico, on November 3, 2018. President Donald Trump previously warned that soldiers deployed to the Mexican border could shoot Central American migrants who throw stones at them while attempting to cross illegally.

Upper right (opposite): A group of Central American migrants travelling in a caravan beg a border patrol agent to let them cross the Mexico-US border fence to San Diego County, as seen from Tijuana, Baja California state, Mexico on December 15, 2018. Thousands of Central American migrants, mostly Hondurans, have trekked in a caravan for over a month in the hopes of reaching the United States.

Lower right (opposite): A man (who only said he was from Guerrero, Mexico) gets stuck in the concertina wire as he crosses the US-Mexico border fence from Tijuana to San Diego County as seen from Tijuana, Baja California State, Mexico, on December 28, 2018.



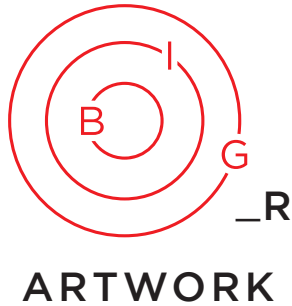




Upper left (opposite): Tijuana first responders rescue a migrant, allegedly part of the Central American migrants — mostly from Honduras traveling to the United States — as he was trying to cross to the United States through the sea in Playas de Tijuana, Baja California State, Mexico, at the US-Mexico border on November 29, 2018.

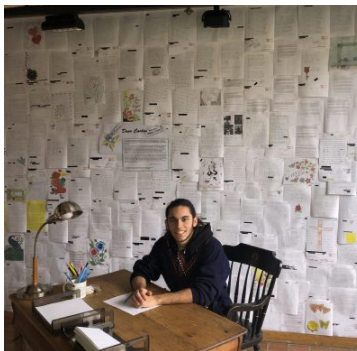
Lower left (opposite): Central American migrants — mostly from Honduras traveling to the United States — react as they surrender to Border patrol agents (unseen) after crossing into the United States in Playas de Tijuana, Baja California State, Mexico, at the US-Mexico border on December 2, 2018.

Above: A man covered with a US flag traveling with Central American migrants — mostly from Honduras — looks on to border patrol vehicles from top of the Tijuana River in Tijuana, Baja California State, Mexico, at the US-Mexico border on November 25, 2018. Hundreds of migrants earlier attempted to storm a border fence separating Mexico from the US amid mounting fears they will be kept in Mexico while their applications for asylum are processed. Migrants were rejected with tear gas and noise bombs by US authorities, detaining 25 migrants crossing the border fencing.



Artwork from ICE Detention Centers

Anonymous,
with Carlos Eduardo Espina



In early 2019, a good high school friend of mine who is from Belize was detained by ICE and sent to the South Texas Detention Complex in Pearsall, TX. In the months that my friend was detained, he and I communicated constantly, working to get him released. During one of these conversations, my friend mentioned that inside the detention center there were hundreds of asylum-seekers with no moral, financial, or legal support in the United States and asked if I could do anything to help them out. Immediately, I mobilized and started a GoFundMe to raise funds and began writing letters to these individuals to provide emotional support. Eventually, word began to spread of the work I was doing and my project grew exponentially. To date, I have raised over \$9000 and have communicated with hundreds of detained refugees, receiving over 500 letters from 15 different detention centers. Not only do I reply to the letters and try to send funds, but I also do the work of connecting detainees with lawyers and family members to help them with their cases. As of October 2019, this project is called the Detained Refugee Solidarity Fund and has 501(c)3 nonprofit status in Texas.

The following drawings were crafted by detained refugees and highlight both the hardships and humanity of life inside immigration detention centers.

To get involved with the project or to learn more:

www.DetainedRefugeeSolidarity.org

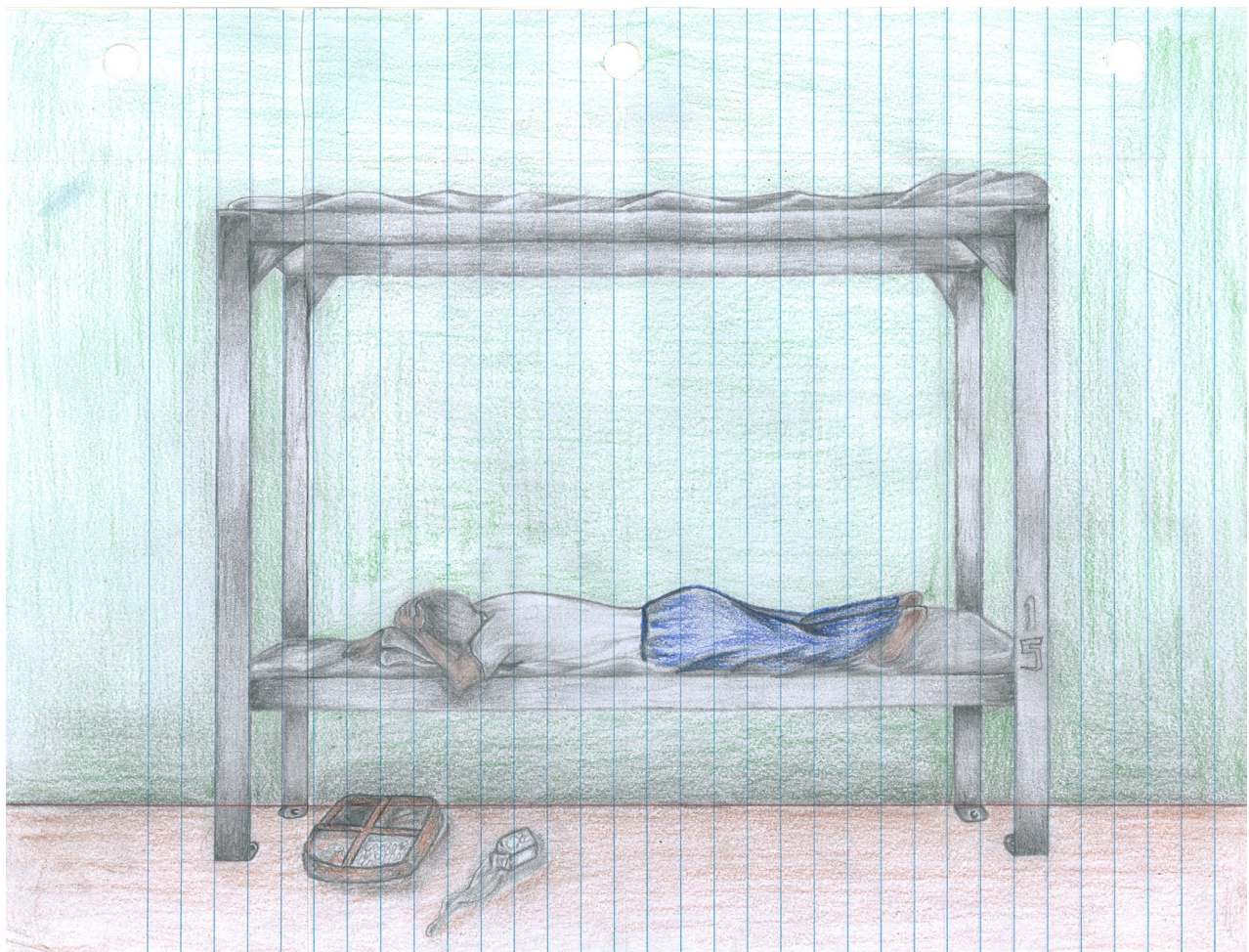
DetainedRefugeeSolidarity@gmail.com



"Incarcerated Hearts: Life in an Immigration Detention Center"



"In God's Hands"



"Life in the South Texas Detention Complex"



POETRY

Borderland

Patricia LeBon Herb



The poem 'Borderland' is inspired by more than 24,000 miles of fieldwork that Patricia LeBon Herb conducted in the borderlands between the United States and Canada together with her partner Guntram Herb. Their work seeks to document the challenges of native nations divided by the US-Canada border. The poem was featured in a poetry column in the Addison Independent in Middlebury, VT and on Guntram Herb's website:

www.border-rites.org



Patricia LeBon Herb is an artist and poet who lives in Middlebury, Vermont. Her poems have been featured on Larry Robinson's poetry lovers online forum and she was a keynote speaker on Verbal Onslaught, Middlebury College's monthly spoken word event. She has exhibited at the National Association of Women Artists Gallery in New York City; Johnson Memorial Gallery, Middlebury College; Walk Over Gallery and Art on Main in Bristol, VT; Champlain Maritime Museum; Fletcher Allen Hospital and the Maltex Building in Burlington, VT (www.lebonherbart.com). She was a local curator of fine art in Middlebury and has been a judge for the fall 2010 Woodlands Native American art exhibition in Sault Ste. Marie, Michigan. Her artwork has been reproduced on the cover of books published by Oxford University Press and Rowman & Littlefield as well as on posters for the International Film Festival at Middlebury College, Addison County Humane Society, and WomenSafe. She is currently working on an art-book with prose, poetry, essays, and illustrations about her Anishinaabe Native American heritage. She is an enrolled member of the Sault Ste Marie Tribe of Chippewa Indians.

Borderland

As we zig zag the
US and Canada border
from Maine to Seattle
and into Alaska

We travel through Native lands
families and friends separated
long lines of cars and trucks
on land and bridges
close communities
divided

Passports to be shown
sunglasses off
those with a DUI
cannot cross over
even as passengers
or ever again
I heard it said

Sometimes it's a long trek
other times not
Reservations and Reserves
two separate lands
on one border
or another

Veteran Elders come
to participate
at Eagle Staff gatherings
some well into their 90's

Regalia and bundles
inside the car
the border patrol
depending who you get
know better now
to not go through them

Officers with good training
have learned to respect
the ways and traditions
different from theirs

Indigenous men
women and children
come to participate
in a pow wow
a celebration
a sacred circle
on the other side

First Nations go south
Native Americans go north
First Alaskans go east
Northern First Nations go west

To participate and celebrate
to give thanks for each other
the earth
the land and waters
animals and trees
stories from another time

Everything done in a circle
intricately sewn regalia
headdresses, jingle dresses
made with feathers, beads
and the hide of buffalo
caribou, deer, and seal

Songs and traditions
from long ago
to say we are one
in a circle

with no borders

Patricia LeBon Herb
Ziibinkokwe, Turtle Clan



POETRY

Unknown Roads

Ninette Rothmüller



Photo credit: Fraser Stables

The autoethnographic poem 'Unknown Roads' crystalizes—in the sense of applying a pattern and producing clarity—intimate experiences of socio-geographical displacement, oppressed language preferences, and family separation across borders. 'Unknown Roads' trots with a dog, as a safe non-judgmental other, unconcerned about language insufficiencies.

The aesthetic medium of autoethnographic poetry 'translates' walking into word-steps on my paper. I discourse. 'Discourse', in its word origin, means walking (back and forth). I pace back and forth restlessly: see the shortness of the poem's lines and my steps are alike? As I pace, words lay bare, they can't hide behind a grammatical order that I can't master. In turn, I take on ownership of the language that I have been displaced into, by walking right through it, by writing autoethnographic poetry. Such poetry does not reveal that I do not know where commas go in sentences.

I walk theory: academically non-aligned and grammatically off-leash. I borrow the term 'walking theory' from the Serbian collective Teorija koja Hoda. In my pacing, borders between play and diverse peoples' everyday realities start to blur. To create such blurring is a performative autoethnographic writing practice that exposes certain experiences, such as being displaced; yet particular vulnerabilities are hidden, such as the language insufficiency that the displaced subject finds themselves confronted with and silenced by. Writing poetry is thus the research writing that I, as displaced academic, can offer in order to provide tender insights, speak, invite a response and foster change.

...

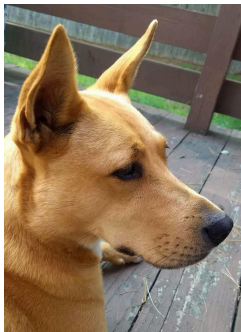


Photo credit: Mark Sellers

Solidarity researcher and artist Ninette Rothmüller (aka Aimee Xenou) is a visiting scholar at Smith College, Massachusetts, and at the Ph.D. Program in Sociology at the Graduate Center at the City University of New York (CUNY). With a background in Cultural Studies, Social Work and Interdisciplinary Arts, her practice-led and theoretical work is concerned with who humans are to, and with, each other under various circumstances, such as severe crises. Her work applies a gender perspective to the thematic areas of trauma, cultures of fear, ethics, and social solidarity. She promotes joint artistic research practices and embodied forms of knowledge production, based on relational interactions between humans and non-human others. She has experienced involuntary family separation and forced immobility herself. Poetry is the catalyst she utilizes to intimately reflect on all these experiences so that they may be expressed outside of the legal rules that apply to her life.

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Unknown Roads

The dog walks me
through roads
unknown

nothing to remember
now
that I have crossed
the border
and am – here

alone with the dog
alone with words that
live on my tongue
only

The dog walks me
through roads
known

always
nose on the ground
tail wagging
soft trot
her fur the color of the sunset behind
my grandmother's house

to survive
and next to the dog
I walk along known paths

in my mind
I am never here

my feet have never touched the ground here once
never walked next to the dog

this route
now
is the forest path my grandfather took

this one
the long gravel road
tractor marks
along the grave yard

where they all are

now

it has to be
how else would I ever ...?
fold my hands

suddenly
out of

Nowhere

the house
that's never a home

we step in

the dog still wagging its tail
back and forth

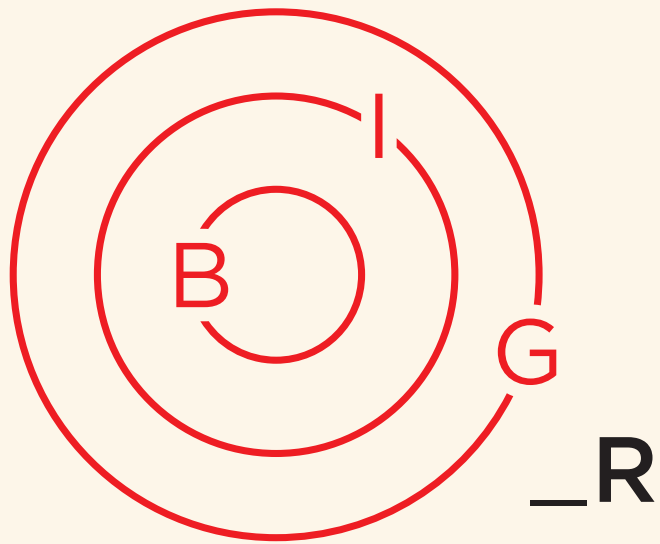
as if...

me thinking about going back to the graveyard
tomorrow
taking the

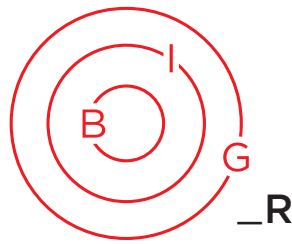
long gravel road

when we walk different roads
as we walk
side by side

the dog and I



ESSAYS



ESSAY

The Figure of the Migrant and a Lithuanian Attempt to Escape from Herself (The case of Sigita Maslauskaitė-Mažylienė)

Basia Nikiforova *

For those engaged in the visual arts, the notion of the border is not just a physical reality imposed on the landscape by historical circumstances and political forces; it is also the subject of imagination, representation and visualization. For European artists, how migration, refugees and new ethnic and religious communities continue to develop is of particular importance. This essay examines the relativities between the so-called re-territorialization of borders and their materialized visual image. In doing so it seeks to reflect the balance between claims of difference and sameness, and also the dynamics that exist between dominant perceptions and self-representations of the refugees themselves. Over the last decade the notion of border has been fixed and consolidated in the artistic consciousness, especially how this phenomenon – barrier, walls or fences – can divide. With the crisis of mass migration in recent years, there has been an accompanying sense of dread, horror, a fear of death and the loss of family. The experience and ideas of the Lithuanian artist, Sigita Maslauskaitė-Mažylienė, is useful because it sheds light on the interconnections between new discourses and art practices, and may help us to better understand how Lithuanian people perceive the process of migration and its accompanying problems and issues.

Introduction

Public interest, and those engaged in the visual arts, continue to show interest in issues relating to migration, refugees and ethnic and religious communities. From the outset of this discourse on borders and their meaning to activist artists, it is worth noting why the latter consider borders to be not just a physical reality imposed on the landscape by political forces, but also a subject for imagination and creativity, representation and visualization. The Eastern European archaeology of memory uses two important markers: historically-formed ethnic and religious pluralism, and the related issue of tolerance, all of which creates multiple interpretations.

Gilles Deleuze and Felix Guattari refer to these tendencies as “territorialization” and “deterritorialization”, which should form part of any discussion of the philosophical analysis of the term ‘border’ (Deleuze and Guattari 1983, 259). The two would appear to be in opposition, yet at the same time are reciprocal processes in the East European experience: the disappearance and strengthening of borders happens simultaneously. Postmodern art intuitively reflects the important tendencies that, after some decades of European deterritorialization, expressed the tendency toward reterritorialization. The visual image allows us to consider the image of

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the virtual border as a sociological site, and migration as a historical constant. Thus, the unambiguity of such once-stable entities as a border is relativized. The penchant for dissimilarity was reflected in the visual arts that reconceptualized the image of the human being, nature, matters and the interconnection between them.

In regard to mass migration, the relationship between art and politics has become significantly more complex and less univocal; however the following examples of artists suggests that there are instances when creativity has great possibilities to bring about change in the world through visual and narrative images.

Towards a biopolitical horizon of thinking

In recent decades, the phenomenon of globalization and the migration crisis on Europe's borders has actualized the biopolitical paradigm. Confronted by environmental, economic, and political instability, millions of people are on the move. Indeed, "the migrant has become the political figure of our time" (Nail 2015, 235). Migration as such means a situation that is neither entirely free nor forced – both characteristics are typical of the same regime of social motion. The regime of social motion endows the migratory figure with such features as non-stable social positions, and not fixed identities perceived as a secondary or derivative figure. Instead, the migrant is regarded as a figure without their own history and social context.

In recent decades, Nick Vaughan-Williams and Thomas Nail, among others, have sought to revise such important notions as refugees, migrant, migration and dehumanization through a biopolitical paradigm. They offer new hypotheses for contemporary border studies, which provide a possibility to reconceptualize the meaning of the border as such and its general actors. At the same time, they attempt to provide a counter history of the migrant by prioritizing movement. The migrant as such is not only an empirical figure but also signifies a new model of political membership. From Vaughan-Williams' standpoint we do not find binary alternatives, one of which we should trust. Using the metaphor of "an immune system", he explains that a state is an organism, and much the same as a human being; it can protect and defend itself. At the same time, "more attention needs to be given to the 'negative' dimensions that expose 'irregular' populations to dehumanization and death" (Vaughan-Williams 2015, 12). He also remarks that the recent migrant phenomena should encourage us to rethink and deconstruct the fundamentals of political and cultural philosophy and find new lines and boundaries in which to exist.

For them, we should engage in the reinterpretation of history and theories of social movement, in light of the fact that human groups function primarily as flows.

Some specific characteristics of refugees influence external identification visibly through one's physical appearance: color of skin, face, body, clothes and headwear. As such, the process of differentiation is a starting point for the imagination of otherness. Immigrants and immigration are sometimes regarded as threats due to the fear of the physical difference (the 'other') which has some relation to racism in the traditional use of the word. On post-human per formative discursive practices, we look on a contestation of the excessive power granted to language in order to determine what is real. The visual arts use posthuman performance as a type of intervention that explores social relationships and transformation outside the parameters of humanism. Posthumanism attempts to look on the migrant as a multiple wholeness.

Visual arts and social activism

For art activists, the current debates surrounding borders, the migration crises and refugees allows art to function as a space and medium for protest and social activism. Art theorists regard the phenomenon of artistic activism, which is quite different from the phenomenon of critical art, as somewhat novel, although it is becoming increasingly familiar. For Boris Groys, art activists seek to change political and social conditions by means of art, "not so much inside the art system but outside it, in reality itself" (Groys 2014). They were mostly criticized for the reason that sometimes morality and justice dominate over artistic quality. We use Debord, the "situationist", and Walter Benjamin's ideas about the aestheticization and spectacularization of politics that divert attention away from the real goals of protest towards its aesthetic and artistic images. Art from political action is converted into pure aesthetics and spectacle. The famous artists, Ai Weiwei, Artur Zmijewski and Krzysztof Wodiczko, among others, are often blamed for such a transition.

Debord announced such in his book, *The Society of the Spectacle*, in 1967. Even today, it remains an important theoretical work about the contemporary role of mediation in social, cultural and artistic practice. In the late 1990s, Debord went on to argue that everything he had written in 1967 was still true, but with one major exception: that *The Society of the Spectacle* had reached a new form. In fact, some of his remarks about the aestheticization of social and political life are now highly relevant in the analysis of border and migration processes.

The contradiction between humanitarianism and border security is of particular interest in the international visual and narrative arts. The image of the border is very close to "had to open up to powerful and direct revelations, those of the time-image and the thinking image" (Deleuze 1997, 23).

To borrow Deleuze words about "vital intuition of the time-image", let us consider the poetic novel of Tommy Wieringa, *These Are the Names* (2012), about the refugee's journey. Wieringa presents several migrant characters that have fallen victim to human trafficking. The border that these migrants so desperately want to cross, and that they believe to have crossed, does not really exist. This border is not the national border the migrants wanted to cross in order to flee depressing conditions, but the border that they were trying to close is artificial and virtual. In reality, their Exodus to the Promised Land is a big lie of traffickers who faked the border with all its attributes: guards and dogs. Why is it such an important narrative? First, it is the symbolic image of the posthuman approach in the narrative form. Second, Wieringa creates a global surrealistic image of the contemporary world. Third, this novel is a poetic illustration of such notions as "diffraction", "entangled world", "non-place", which become a metaphor for every kind of critical consciousness. The characters of the novel destroy the uniform migrant image and show that a social persona bears in self many masks depending on the relative social conditions of their expulsion.

If we consider the movie *Human Flow* (2017) created by Weiwei, the Chinese artist and filmmaker, we feel features of the "moment of now", ignoring distance and showing the presence of thousands of people who move around the planet. Weiwei's artistic activity is embodied in "vital intuition of the time-image". For him, there are no forbidden places: he films in refugee camps and the perilous ocean crossings made in order to reach barbed wire borders. He shows such feelings and emotion as courage, dislocation and disillusionment, endurance and adaptation, and the ruin of the known past and the unknown future. *Human Flow* is a visual documentary, witnessing refugees and their desperate search for safety, shelter and justice. The audience clearly feels the presence instead of distance, immersion rather than contemplation, entanglement or diffraction and not representation, emotions instead of language, and touching instead of perception. His motto is "There's no refugee crisis, only a human crisis".

The human being on the border: the visual imagery from Vilnius

Not every painting tells a story; some remain as a static image. What tools can artists use to create

a story or message that stimulates emotions, or to avoid the commodification of art? Every artist in their own way tries to create a unique metaphorical image that will tell their visual story. Our experience of contemporary art is mediated by text, knowledge of the artist's previous work, and our own visual archives that constitute the archaeology of the present.

Meanwhile, the phenomenon of migration and refugees is gaining significance in Lithuania's visual arts. In the summer months of 2017, Vilnius hosted several exhibitions dedicated to migration, borders, and the problems facing refugees. One artist in particular, and who is known to me personally, is the Lithuanian, Sigita Maslauskaitė-Mažylienė, whom I interviewed as the author of a chapter in a book that was published in June - August 2018. The interview was free form, starting with only a few questions. In fact, we spoke for several hours in what I describe as a real "mind flow" from which I found an unexpected and close connection between local (even family) and global measurement. For Maslauskaitė-Mažylienė, the events of the two world wars of the twentieth century and their impact on Lithuania paints a sad picture of flows of migration, deportations, death, and losses on the road to exile.

Thus, she explains that her interest in the subject of refugees originated in her own family history following long periods of reflection during which she came to fully comprehend that the stories about Siberia and the deportees had surrounded her since childhood. The Biblical themes that have long been the subject of her painting also often indicate the presence of the topic of exile around her. She felt the desire to 'get rid of herself', to escape from herself in order to survive. In various areas, this topic was of concern to her, yet it was the events of the last decade of migrant flows (and media reporting) across Europe's borders, and turmoil in the Middle East, that finally pushed and inspired her to commence her own project on refugees, which she has realized in such projects as, *By the Rivers of Babylon: Refugees and Deportees*.

Her ideas have manifested themselves in the following ways:

- *St. Stephen's Church: Image, Sound, Space* (June 2017, Vilnius);
- Paintings of refugees (from *Adam and Eve to Aleppo's Boy*) were displayed in the places of destroyed altars of the inactive church, the Gregorian chant choir of the Vilnius Cathedral *Schola Gregoriana Vilnensis* chanted psalms of exile and longing, and the Syrian art critic Farah Mohammed introduced contemporary Syrian art;
- Exhibition of paintings and texts written on wooden fragments, *By the Rivers of Babylon*.

Letters of Refugees was in the Gallery Artifex in the Vilnius Academy of Arts (July, 2017);

- Exhibition and video installation, *By the Rivers of Babylon. Refugees and Deportees*, were presented in the Gallery *Left-Right* in the Vilnius Graphic Art Centre (September, 2017).
- Video installation, "*Partition: Niqab*" (September 2017).
- Performance with niqab at Lithuanian Railway Museum (May 2018).

Maslauskaitė-Mažylienė considers the last event as the final stage in her reflection on the topic. The topics we covered at the interview strongly relate to my research and the aforementioned artist's activity, i.e. borders, deportation and exile, migration, archaeology of memory, refugees' image and performativity, art creativity, social activism, and political conjuncture. Thus, her perception of the border is the high and long wall that divides people, human contacts, culture and art. Her image of the refugee is a person deprived of the right to be here and now, a person feeling their own 'alienness'. Perhaps this explains why she is so attentive and sensitive to so-called alien signs, such as the niqab, black body-covering clothes, the paranja and others. The best examples of this were her performance with the niqab at the Lithuanian Railway Museum

or the video installation, *Partition: Niqab*. Both of them distil the essence of contradictory feelings, emotions and human reactions.

For this artist, the subject of refugees has always been an integral part of European history, and now it is being given a distinctive form, appearance and message in contemporary artworks. She believes that today's events can be considered if we apply different methods through "traditional means" (canvas, oil) that symbolize the interdependence of pre-image and repetition, source of inspiration and replica. She applies her inspiration and creativity in paintings based on both the canonical (classical) story and the mass media visualization and representation of the image of refugees from Syria and/or North Africa. The structure of her exhibition (painted replicas) was based on Hans Belting's statement that "there is a continuous exchange of images and images between living bodies and artificial media". Another idea of Belting about the "widening of the territory of images, together with the opening of the boundaries between different media" helps us to understand the logic and structure of the exhibition (Belting 2005, 302; 2014).

Current discussions about migration crises and refugees are centered on the question of artistic



Figure 1. Sigita Maslauskaitė-Mažylienė. *A Boy* (2017)

activism. Maslauskaitė-Mažylienė interpreted her own refugee project as partly belonging to artistic activism: the project and exhibition was criticized for having stated a need for a different mythology and iconography, and in this regard she noted that her exhibitions and performance had received a very wide-ranging, though not necessarily favorable feedback from both artists and professionals in the field, as well as members of the public. The project, *By the Rivers of Babylon: Refugees and Deportees* is an attempt to show the events that have shaken us through their own image, and help us find adequate visual language in order to speak (see Figures. 1-3). It is an effort to reveal how the images displayed on screens correlate with the theme of refugees in different forms. Maslauskaitė-Mažylienė finds that merely the creation of exhibitions and images is not sufficient for us to fully realize the horrible experiences of war. Nevertheless, she believes that image, as a call to the viewer, helps us to remember and experience the event. At the same time, she highlights the ambivalence of this experience: the endless production and reproduction of images create a situation in which sharp empathy is turned into blunt indifference.

The artist conveyed the feeling of exile and strangeness in her first video film *Partition: Niqab*. The



Figure 2. Sigita Maslauskaitė-Mažylienė. *Refugee* (2017). Photo credit Kęstutis Stoškus.



Figure 3. Sigita Maslauskaitė-Mažylienė. *Wall* (2017). Photo credit Kęstutis Stoškus.

strangely annoying experience with the images of refugees and the debate around the artistic value of the project have benefited not only the artist, but the audience as well.

For me the video installation, *Partition: Niqab*, is about the body and its frontiers, the woman's limited personal space, border and gender. My question to her was met with an unexpected and carefully considered response. For her, this video is an allegory of partitions and walls, for it says in the Quran: "Speak with them through the divan (niqab)". Maslauskaitė-Mažylienė: "The most inter-

esting thing for me was to participate: to see the human reactions, to observe everything through the narrow gap for the eyes in the headwear [...]". The targeted tourist objects in Lithuania, and particularly Vilnius, are the background, and the strangeness and foreignness of the woman with a niqab is highlighted. In my opinion, this person (not necessarily a woman) is separated physically, socially and emotionally. The alienation of the human being is visible against the background of a Christian and industrial landscape. Invisible walls surround this figure and create a multiple wholeness of walls. The apparel and gender are the only



Figure 4. Sigita Maslauskaitė-Mažylienė. *Partition: Niqab* (2017). Photo credit Kęstutis Stoškus.



Figure 5. Sigita Maslauskaitė-Mažylienė. *Partition: Niqab* (2017). Photo credit Kęstutis Stoškus.

distinguishable and visible parts; all other (religious, ethnic, racial) identity marks are created by our imagination through mass media and our social experience (see Figures. 4-7). For her, the video installation was interesting in the following ways: the reaction of people, and her own "experience of monitoring through a narrow gap in the headwear". Maslauskaitė-Mažylienė repeated the performance with the niqab at the Lithuanian Railway Museum in May 2018.

The artist recalls: "In the wagon where I sat every third passenger was afraid to get on board, mothers

tried to explain to their children that this was simply a *human being*". She found that through this short journey with a niqab her personal space was more overwhelming than without it: "it is interesting to observe the world and people, and to know that they do not see you, do not recognize; as a woman I feel safe in all senses, as an outsider, I feel that I am interesting and scary" (Interview summer 2018). In my view, this artistic performance has a strong element of social activism.

To my question on what the artist thinks about conjuncture in contemporary art and how much



Figure 5. Sigita Maslauskaitė-Mažylienė. *Partition: Niqab* (2017). Photo credit Kęstutis Stoškus.



Figure 7. Sigita Maslauskaitė-Mažylienė. *Partition: Niqab* (2017). Photo credit Kęstutis Stoškus.

the media, as well as social and political discourses influence her creativity, I received a rather pessimistic reply: "After my project there were no consequences with the conjuncture. Nothing happened. I was left completely unnoticed: neither did a Seimas (Lithuanian parliament) member, nor an embassy, ecclesiastical institution or refugee center ask me to show the exhibition and video installations. Therefore, in this sense, I am clean. Perhaps we could even ask, why?"

Conclusion

My contention is that the migrant is a political figure of our time. The figure of the migrant is not a "type of person" or fixed identity, but a mobile social spectrum in which people move in and out of under certain social conditions of mobility. The figure of the migrant is a political concept that defines the conditions and agencies by which various figures are socially expelled because of their mobility. The social conditions of migration are always a result of mixing and weaving of territorial, political, juridical, and economic types of expulsion.

The latest discussions on the topics of border, migration crises and refugees are mainly centered on the questions of artistic activism. We regard artistic vision as a condition, ability, source and linkage that enables us to view things in new ways or from a different perspective, and also to generate new possibilities or new alternatives through the world's ongoing intra-activity of art practice. These cases show that creative art sometimes has great possibilities to make an effort to change the world through image.

The Maslauskaitė-Mažylienė project and its events are remarkable for their devotion and careful attention to the migrant's subject and the variety of forms of visual arts used. At the same time, we feel her personal and autobiographical notions, and her refreshing of the processes that public opinion may regard only as a new inevitable reality.

Postscript: Maslauskaitė-Mažylienė was a winner of the online art contest "The Future We Want" organized by the Perception Change Project of UN Geneva on the 75th anniversary of the United Nations. She as winner received the Director-General's special prize will be invited to exhibit some of her work in the Palais des Nations. The winning piece was "Wall", submitted by the Permanent Mission of Lithuania (see Figure 3).

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ESSAY

Line Dancing in the Borderlands Region of Stanstead, Quebec

Sandra Vandervalk *

The activity of line dancing is presented as a metaphor for how the border between Canada and the US at Stanstead, Quebec and Derby Line, Vermont is made real through human enactment, how creative human response transforms it, and at the same time, how identities are also shaped and changed by the collectively imagined border.

In the fall of 2015 I did fieldwork for my Master of Arts degree in cultural anthropology in Stanstead, Quebec and Derby Line, Vermont (Vandervalk, 2017). These towns, settled in the early 1800s, lie side by side along the Canada US border. At the time, news stories focused on how changes to the border in the aftermath of 9/11 were driving a wedge through the heart of two towns which had formerly functioned as a single, albeit cross-border community. The point of my research was to examine the impacts of processes initiated outside the region on relations within the region. As an anthropologist, I realized that I could only do this by considering what it might mean to live in a perpetually in-between place. What follows is drawn from the introductory chapter of my thesis in which I present the activity of line dancing as a metaphor for how borderlanders creatively respond to situations not of their own making in order to enact and make real a unique borderlands social world.

Stanstead is in the Eastern Townships of Quebec, 160 kilometers southeast of Montreal. It's the product of the amalgamation of the three villages of Stanstead Plain, Rock Island and Beebe in 1995, although locals still tend to refer to the historic village names when discussing local happenings. Just south of the Rock Island and Beebe sectors of Stanstead lies the village of Derby Line, Vermont. Although they are in different countries, Stanstead and Derby Line share

well water, sewage treatment, and maintenance of shared roads and firetrucks when necessary. They also share the Haskell Library and Opera House, which is built on the borderline and funded by the governments of both Quebec and Vermont. There are three border crossings between Stanstead and Derby Line—a larger one on the highway just east of the communities, and two smaller ones within the communities. With the exception of one, all roads that have historically crossed the boundary without a port of entry have been blocked by heavy gates in recent years. The one remaining open road is used by patrons of the Haskell Library and Opera House who are allowed to walk on the sidewalk from Canada to get to the building's entrance on the American side. Almost always, either an American Border Patrol or RCMP vehicle idles near the building with officers observing everyone who enters and exits.

During a brief visit to Stanstead in the summer of 2014, I was struck by the evident conflict between the border as enacted by non-local bureaucrats and officials and its very central place in what seemed to be a single cross-border community. I saw the peculiar and particular material characteristics of a port of entry unlike any other Canada-US border crossing that I had seen—this was a crossing intended for use by cars, bicycles and pedestrians. I was also intrigued by how the borderline between Canada and the US is made manifest in public

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locations variously through friendly potted plants, electrical tape stripes across the floor in the public library and opera hall, and yet sometimes also by decidedly unpleasant barricades and angry signs dropped across what were evidently once through streets. This is a borderline that divides homes, yards and streets. It clearly affects the day-to-day lives of everyone who lives near it. My study sought to answer the question, what does it mean to live in such a liminal place—a place that is liminal because it is in-between nations, and a place that is liminal because it is always changing? My research showed me how borderlanders manage to trouble the non-borderlander assumption that the border is a line that divides and separates.

From my field notes:

I'm at the Manoir in the Stanstead Plain sector. This was formerly an Ursuline Convent, but is now a retirement home. Specifically, I'm in the chapel, attending a line dancing class. This is a beautiful, large and airy space, decorated with ornate columns, plaster medallions on the ceiling, large chandeliers, and yellow and clouded-white glass arched windows. It clearly continues to function as a chapel occasionally—something of an altar, and a few old pews remain, albeit pushed to one side of the space. It is also obvious that the chapel serves primarily as a multi-purpose room. On one of the end walls, beneath a remarkable life-sized, carved wooden Christ figure, there is an equally remarkable pool table. At the other end of the room, there are a number of tables littered with an assortment of large-piece jigsaw puzzles and craft supplies. These tables have been pushed back to make an open square, perhaps 20 by 20 feet in size, in which a dozen women have arranged themselves in columns and rows. Most of them are French-Canadian, some are English-Canadian, and two are from the American side. I consider all but two of them to be either late-middle-aged or elderly. A fit and enthusiastic octogenarian stands at the front with her back to the other women.

She begins.

She counts to twelve in French as she maneuvers her way through the sequence of steps that form the base of a line dance with which these women are unfamiliar. She turns to the women and says something that is clearly the equivalent of "Can you get that?"

The women register some confusion. The instructor turns her back to them and resumes counting off steps, this time in what seems to be an endless series of 12s:

"Un-deux-trois, quatre-cinq-six, sept-huit-neuf, dix-onze-douze. Un-deux-trois, quatre-cinq-six, sept-huit-neuf, dix-onze-douze. Un-deux-trois, quatre-cinq-six, sept-huit-neuf, dix-onze-douze."

She moves continuously through each repetition of the twelve steps. By the time she gets to "douze", the sequence of steps has her finishing ninety degrees from the direction she started in. At "Un" she begins to repeat the sequence of steps in the new direction. Each sequence of steps turns her ninety degrees. After a few sequences, some of the women begin to imitate her moves.

"Un-deux-trois, quatre-cinq-six, sept-huit-neuf, dix-onze-douze."

Two or three of the women can do the dance now.

"Un-deux-trois, quatre-cinq-six, sept-huit-neuf, dix-onze-douze."

Over and over she counts, and they follow her. After a while, most can do some of it, some can do all of it, and a few still cannot follow at all.

The instructor stops, and moves to a tape player. It's time to add music. She finds the song she wants and returns to her position, cuing the beginning of the sequence of steps with her right index finger.

"Un-deux-trois, quatre-cinq-six, sept-huit-neuf, dix-onze-douze."

Over and over and over she counts. After two complete runs through the song, I cannot see much difference in the performance of the students.

She returns to the tape player, and finds a new song. She cues the beginning, and

"Un-deux-trois, quatre-cinq-six, sept-huit-neuf, dix-onze-douze."

The song is a French-Canadian ballad, with a beautiful, slow, lilting melody line.

"Un-deux-trois, quatre-cinq-six, sept-huit-neuf, dix-onze-douze."

After a few moments, I watch one by one, as the women surrender their bodies to the music, their eyes looking forward, but no longer fixed on the instructor. By the end of the song, the women are moving together, like a single organism—each

one dances the steps in unison with the others, all of them dance oriented in the same direction. And yet each dances her own dance.

"Un-deux-trois, quatre-cinq-six, sept-huit-neuf, dix-onze-douze."

I found myself at this line dancing class towards the end of my first two weeks in my field site. Somehow, in spite of my dislike for country and western music, this was actually the third line dancing event that I had attended in my short time in the area. While I cannot argue with certainty that line dancing is more popular in this area than it might be in other parts of Canada or the United States (although perhaps it is), I can say that it was a very important part of social life for several of my informants. Each of these women, regardless of language, culture, or citizenship was in the room as a member of a social group whose purpose was to learn and perform in unison the intricate steps of a new line dance.

Stanley Tambiah notes Radcliffe-Brown's perception that rhythm in music motivates people to yield to its form, and by doing so facilitates the creation of unity among people in collective performance (1979, p.113). It is unpleasant to move in a way that does not rhythmically conform to the music, and at the same time, by agreeing to yield, to collaborate with the music, the dancer experiences the "pleasure of self-surrender" (p.113). Dance in ritual is a force that brings embodied selves together into a particular kind of conformity. It acts out meaning while also creating that meaning. At the same time, the possibility for innovation is never excluded. New meanings may always be introduced, created, enacted within the framework of rules that constrain the dance. Tambiah argues that these characteristics of dance can be attributed to most collective rituals as well.

While my line dancing anecdote is not necessarily an instance of ritual dancing, it is nonetheless an activity in which a group of performers work within a set of "rules" to enact, or create a particular reality. Watching the women engage in the process of learning the changing steps, watching them work together within a complicated framework of mutually understood rules, and yet also watching each woman move with her own unique style—I was very quickly struck by the aptness of line dancing as metaphor for the way the people of my fieldwork site navigate and negotiate their bodies, lives and identities in the shadow of the international border. But it also became a metaphor for how the border itself is constructed out of the interlocking performances of the many people who interact along, and across, and around its collectively imagined length. The border exists on paper and in legal documents—passports and permits, rules and regulations, economic and

security policy documents—it has been cut through forests, and marked by cameras, but really, it is a thing that is brought to life only in the performative acts of people who enforce it, come up against it, sneak past it, or move through it. The border is created, enacted and transformed moment by moment through the communications and practices of people in many different ways, and through many different channels—corporally, verbally and institutionally—and it becomes a reality which in turn has an impact on the identities of those who enact it.

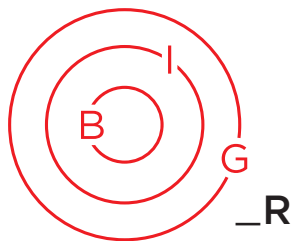
When I arrived in Stanstead, I intended to explore impacts on the community resulting from the increasing security at the border in the aftermath of 9/11. While I have no intention of arguing that the tightening of the border has not negatively affected the communities of Stanstead and Derby Line, I would like to qualify my position with one little statement: Living at the edge of a country is complicated. Living at the bridge between them is complicated. I would argue that while the project of increasing security at the border has undoubtedly increased the gulf between the two sides of the line, the border has always been central to existence, to the ways of being in the world of those who live in proximity to it. The border is a bizarre human production and enactment, and the borderlanders are participants in this enactment—they define its presence, they challenge and redefine the rules of engagement with it, and at the same time, it shapes their identities—as border people. The border is central to their life-world, its enactment is written into their bodies, and they willingly share it with those who truly understand its life-making and affirming capacities. As I found out over the course of my time in the region, new line-dancers are always welcome to the class.

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La “frontera” según Paul de La Pradelle *

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Resumen: Autor esencial sobre la “frontera”, Paul de Geouffre de La Pradelle es conocido por su teoría jurídica original. El autor distingue entre “delimitación” (que es una línea) y “frontera” (que es una zona de cooperación). También diferencia lo que llama la “frontera nacional” (“objeto de estudio del derecho interno público”) y la “frontera internacional” (“objeto de estudio del derecho internacional público y privado”).

Introducción

El término frontera permite articular verbalmente fenómenos cuya función es diferenciar. En el derecho, en general, la frontera internacional de un Estado es entendido como un límite territorial con una función de diferenciación jurídica. Este breve ensayo presenta una revisión detallada de las ideas esenciales del jurista Paul de La Pradelle sobre su concepción de la frontera en el derecho internacional. Las obras de este autor son esenciales para los estudios sobre fronteras, límites internacionales y zonas fronterizas. La Pradelle, de hecho, produjo una teoría jurídica original, completa, y rica sobre la frontera en su tesis publicada en 1928 titulada: “La frontera: Estudio desde derecho internacional”. Como él mismo dice, su tesis rompió con la tradición. En el resumen de esta, el autor defendió la idea de que la frontera, antes y después de la delimitación, era mejor concebida como una “zona” y que esta zona no debía confundirse con el concepto de “límite”. Así pues, Paul de La Pradelle distinguió claramente, a nivel terminológico y jurídico, por un lado, el concepto “límite” y, por otro lado, el concepto “frontera”. Inspirado en Friedrich Ratzel, su idea principal se puede escribir de la siguiente manera: El límite es una línea; la frontera es una zona. Para La Pradelle, si la “frontera” es un “área territorial compleja” (1928:14) o un “régimen territorial complejo” (ibid.), el “límite” es, y solo puede ser, una “línea”

(1928:17). Basado en esta diferenciación, después de presentar brevemente al autor, este ensayo se centra en las ideas desarrolladas en su tesis de 1928 y en un artículo sintetizado publicado en 1930 (artículo que se dedica exclusivamente al concepto de “frontera” en el sentido que La Pradelle entiende como una zona de cooperación y de relaciones de vecindad).

Paul de Geouffre de La Pradelle (1902-1993) es hijo del profesor de derecho Albert de Geouffre de La Pradelle (1871-1955). Nacido en Grenoble, Paul de La Pradelle, Doctor en Derecho y Profesor Asociado, fue catedrático de derecho y Fundador-Director del Instituto de Estudios Políticos en Aix-en-Provence en Francia (de 1956 a 1974). Inauguró cursos de derecho aéreo y participó en las primeras conferencias sobre el derecho del mar en Ginebra (1958, 1960). También fue electo miembro del Congreso del Pueblo en 1977 y fue presidente del Instituto de Estudios Globales (1978). Su trabajo de 1928 sobre “La frontera” (tesis doctoral) es una institución en la doctrina jurídica, especialmente porque su idea de frontera como una “zona de cooperación” estaba en contra de la doctrina dominante del momento que entendía la frontera como una línea. Finalmente, la práctica del derecho internacional no aceptó su definición de la frontera como una zona.

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La Tesis de 1928: La frontera como una zona compleja

Su trabajo de tesis de 1928 contiene una introducción dividida en dos capítulos (pp.9-51). La primera parte de su tesis trata sobre “El derecho internacional moderno y los límites de los estados (Delimitación)” (pp.53-222) y la segunda parte sobre “El derecho internacional moderno y el régimen fronterizo (La Vecindad)” (pp.233-306). El primer capítulo de la introducción plantea la idea de que “no hay más frontera que la frontera política” (p.11). Y también hace referencia a que el fenómeno histórico de la frontera “apareció tan pronto como se formaron los grupos sociales” (p.14). Para La Pradelle, la frontera puede encontrarse en el derecho público interno y en el derecho internacional público. Por un lado, la frontera está prevista por el derecho público interno, y es entonces el “modo de expresión de la unidad y la cohesión del Estado” (p.14). Bajo este prisma, la frontera corresponde a “todas las instituciones creadas especialmente en la zona periférica del territorio con fines de defensa o disciplina. Es un área de servicios públicos, distintos de los servicios interiores, especializados en fronteras con nombres específicos. La frontera aduanera, la frontera militar, la frontera marítima...” (ibid.). Por otro lado, la frontera está contemplada por el derecho internacional público. En este caso, la frontera es “un área de contacto y relaciones contiguas entre estados” (ibid.). Es “un lugar de relaciones, un régimen de relaciones entre dos estados en un territorio mixto que resulta de la reunión de sus respectivas zonas territoriales periféricas” (ibid.). También presenta allí la aparición sucesiva de los diferentes elementos de la frontera moderna (p.18). Describe en detalle el “límite” (limes), la “frontera interna” (finis) (p.20) y la “frontera internacional” (confrontatio) (p.25). La Pradelle circunscribe su estudio de la frontera a un doble aspecto de la delimitación y de la zona (y descarta de su análisis el problema de lo que llama fronteras en el derecho interno). Para La Pradelle, el problema de la “delimitación” responde a la pregunta de la ubicación del límite y los procedimientos legales y técnicos mediante los cuales se fijará este límite. El problema de la “zona” plantea al autor la pregunta “¿cuáles serán los efectos de la delimitación en el régimen del territorio?” (p.17).

El enfoque teórico y jurídico de La Pradelle, por lo tanto, incluye la delineación del límite y, lo que más le interesaba, la rama de la cooperación a través de los límites. En su teoría de la frontera en el derecho internacional, todo lo relacionado con el límite territorial corresponde a la rama del derecho que concierne a los procesos de delineación, demarcación, y amojonamiento, y todos los actos jurídicos que proceden de este acto. Es el derecho de los límites territoriales de los Estados. Por otro lado, la

práctica jurídica de los convenios de cooperación fronteriza interestatal sienta las bases de su enfoque teórico de la frontera internacional como una zona. Por lo tanto, La Pradelle difiere de todos los demás juristas por tres razones principales: Primero, en que desvincula el significado de “límite territorial” del de “frontera”; segundo, en que propone que la “frontera” es un “área” con un aspecto interno y un aspecto internacional; y tercero, hace una distinción en su teoría general entre la “frontera nacional” y la “frontera internacional”. Todo lo relacionado con el aspecto de delimitación es parte del régimen jurídico centrado en el concepto de “límite”. Todo lo relacionado con el aspecto de colaboración a través del límite territorial corresponde al régimen del concepto de “frontera”.

Parte 1: La delimitación

La Pradelle define una delimitación como “una forma de expresión formal y jurídica del Estado” (p.55). La delimitación moderna significa así una “separación de poderes estatales contiguos” (p.30). Es un “atributo de la autoridad” (p.56). El límite a su vez constituye un “marco para el ejercicio de la autoridad” (p.64). Los motivos de la delimitación se deben al “valor excepcional que la concepción moderna del Estado atribuye al suelo político” (p.57) y a la “utilidad de una determinación espacial de la competencia y responsabilidad del Estado” (p.59). A partir de esto, el autor identifica tres consecuencias jurídicas y políticas de la delimitación: la paz, la afirmación de la independencia de un estado, y la seguridad. Especifica que “el respeto esencial de los límites es solo una consecuencia del respeto de los tratados en los que se registran estos mismos límites” (p.61).

Ningún Estado puede tomar acción directa alguna más allá de sus límites territoriales. Por ejemplo, la fórmula ejecutiva de una sentencia extranjera no puede tener efectos en el territorio nacional directamente y por derecho. Para que esto sea así, esta debe estar facultada por el juez de ese Estado en el procedimiento de exequatur (p.64). Lo que la frontera distingue estrictamente al separar unos de otros es solo las competencias ejecutivas. Estos no se superponen. Así, La Pradelle especifica que el límite toma todo su valor de límite real en términos de un acto administrativo: “Si abandona el campo de la ley, consideramos el campo administrativo dedicado a la organización y operación de los servicios públicos; si pasamos del dominio de las normas legislativas al del acto administrativo, el límite toma su valor real como límite de los poderes ejecutivos. Solo los actos que constituyen o garantizan la ejecución de las leyes están limitados territorialmente” (ibid.). A esto agregó: “Tan pronto como ya no se trate de emitir una orden, sino de

su ejecución, el límite es el criterio esencial de la competencia estatal" (p.65). El ejercicio de todas las formas de coerción más allá de los límites territoriales está prohibido para cualquier Estado. Los actos que no van acompañados de medidas coercitivas pueden llevarse a cabo libremente por el Estado extranjero (investigaciones, opiniones de expertos, etc.) (ibid.). En resumen, aparte del campo de la justicia, todas las actividades que caen bajo la atribución del poder público estatal se detienen en la frontera del territorio (ibid.). La Pradelle reconoce la existencia de relaciones de vecindad entre los Estados que se deben a las "crecientes necesidades del comercio internacional" (p.65). Estas relaciones de vecindad conducen a conexiones de servicio público que son posibles gracias a concesiones mutuas y delegaciones recíprocas de competencia. Estos acuerdos de vecindad son "como muchas excepciones al principio fundamental de la delimitación espacial de los poderes de ejecución" (ibid.). Finalmente, La Pradelle propone analizar la competencia general del Estado como un "haz de competencias" (ibid.).

La Pradelle hace un paralelo interesante con la teoría del Derecho de Hans Kelsen, lo que permite a Kelsen situarse en un enfoque teórico de la frontera. Por un lado, La Pradelle recuerda que desde el punto de vista jurídico "todos los límites de los Estados tienen el mismo carácter. Estas son líneas divisorias de competencia absoluta" (p.62). Aquí, hace su famosa distinción entre poderes legislativos (interpenetrables) y poderes ejecutivos (que deben permanecer independientes). Por otro lado, señaló que "la competencia legislativa del Estado, considerado como un emisor de normas, no está limitada por una línea, sino por la validez de la norma. Fue sobre la base de esta idea que pudimos desarrollar una concepción jurídica pura de la frontera" (ibid.). De hecho, esta referencia a la concepción de Kelsen de la "validez de la norma" hace que La Pradelle diga que una frontera podría ser objeto de una "concepción jurídica pura" (ibid.).

El autor también precisa las diferentes operaciones de la delimitación en docenas de páginas. "El procedimiento normal para una delimitación territorial importante implica una serie de operaciones que se pueden agrupar en tres fases: preparación, decisión, ejecución" (p.73). Agrega que "la ejecución consiste en trazar la línea descrita y adoptada sobre el terreno, una operación que lleva el nombre de demarcación" (ibid.). El Capítulo IV revisa los diferentes tipos de límites (límites astronómicos; límites geométricos; límites orográficos; límites de agua incluyendo límites fluviales, lacustres y marinos; límites de referencia) (pp.172 y s.). Al hacerlo, La Pradelle nos recuerda que "cualquier límite, línea geométrica, en el sentido etimológico de la palabra, es como cualquier línea, una sucesión de puntos" y que "cualquier límite así

definido es esencialmente artificial, y sólo puede concebirse como una creación de la mente humana. La línea puede ser un proceso topográfico. No es una verdad natural" (p.172).

Parte 2: La Vecindad

En la página 226 de su tesis, La Pradelle expone el corazón de su representación teórica y jurídica del significado de "frontera". "Hay, en las afueras de los territorios vecinos y contiguos, una serie de tres zonas territoriales, con un régimen especial, cuya combinación constituye 'la frontera': A cada lado de la zona intermedia, que es una zona de competencias mixtas y verdaderamente internacionales, es decir, de conformidad con el derecho internacional, son las dos zonas extremas de territorios con jurisdicción exclusiva, a las que hemos denominado 'las fronteras, zonas nacionales y que se rigen por el derecho interno'". Como él escribe, esta yuxtaposición de tres zonas se basa en la concepción geográfica de Ratzel que La Pradelle adapta al enfoque jurídica (p.226). Con respecto a la zona intermedia, menciona la idea de una "zona de fusión" (ibid.). La Pradelle recuerda el origen consuetudinario de la "vecindad" (p.227); sitúa el surgimiento de instituciones especiales directamente vinculadas al Estado vecinal que crean las fronteras, con el muy antiguo ejemplo de la extradición (p.230). También cita en particular la actividad política de los reyes de Escocia e Inglaterra con respecto a sus áreas fronterizas o "marchas" (siglos XIII-XV). Y también referencia específicamente el trabajo de William Nicolson "Leges Marchiarum: Or, The Border-Laws" (1705) (p.231), que parece ser el primero en disertar sobre estas "marchas" o áreas intermedias. Uno de los acuerdos identificados por Nicolson describió estas áreas como "terreno debatible" (1705:80). La Pradelle escribe que "la vecindad, hasta ahora una costumbre simple, se le apareció al Estado como una institución necesaria" (p.232). En las páginas siguientes (pp.233-235), justifica tanto el enfoque de la línea-límite para los Estados como el acuerdo de colaboración fronterizo firmado por estos mismos Estados vecinos. Si para el Estado, el establecimiento del límite debe ser una línea de contención, desde el punto de vista de los individuos, el rigor del límite debe suavizarse y acompañarse de una consideración específica de la situación de contigüidad. La Pradelle escribe que "la contigüidad de dos territorios necesariamente da lugar a un régimen de vecindad entre los Estados" (p.233).

A medida que la organización territorial de los Estados mejora con los servicios públicos que irradian hacia la periferia "hay presión en la frontera de todas las fuerzas vivas del país, lo que tiende a forzar el límite e ir más allá" (ibid.). Por lo tanto, "las ramificaciones de los servicios estatales tienden a superponerse más allá de las de la red estatal vecina" (ibid.). En conse-

cuencia, los gobiernos adyacentes firman convenios bilaterales que fijan, por un lado, el estatuto especial de las personas “que, descendiendo de los marcos, se convirtieron en trabajadores fronterizos” y, por otro lado, el “régimen de colaboración de los diversos servicios públicos en la frontera” (p.234). Con la organización política y legal de este régimen general de vecindad, los Estados han organizado “la caída de la concepción clásica del límite que es insuperable o difícil de cruzar” (ibid.). Como prueba de su demostración, este recuerda que los trámites aduaneros en la periferia del territorio se consideran como “una institución obsoleta” (p.235). La Pradelle da el ejemplo de la Convención internacional para la simplificación de las formalidades aduaneras firmada en Ginebra el 2 de noviembre de 1923 por treinta y seis Estados. Para La Pradelle, posponer las operaciones aduaneras a los puntos de partida y llegada dentro del territorio es “la solución ideal” (ibid.).

Las siguientes páginas se centran en el régimen fronterizo (pp.236-264), el cual trata de la cuestión de los límites de propiedad, usos de la tierra, derechos de pastoreo (con el ejemplo de las convenciones pastorales pirenaicas), industrias y fábricas, profesiones liberales, relaciones religiosas y culturales, y el régimen de las instalaciones y condiciones específicas para los trabajadores fronterizos. El final del libro se trata del régimen jurídico de la vecindad convencional (la frontera, lugar de colaboración entre Estados) y extracontractual (la vecindad, creadora de derechos; y la vecindad, excusa de obligaciones). El artículo que La Pradelle publicó en 1930 repite la esencia de su tesis, presenta de manera actualizada y sintética su teoría de la frontera y describe lo esencial de los regímenes jurídicos sobre las relaciones de vecindad.

El artículo de 1930: Teoría de la frontera

El artículo de La Pradelle en el Repertorio de Derecho Internacional de 1930 trata específicamente de su “Teoría de la frontera”. Este artículo está estructurado en cuatro capítulos. La Pradelle habla sucesivamente de los convenios relacionados con la población fronteriza (cap. I), los convenios relacionados con la colaboración de los servicios estatales (cap. II), los convenios relacionados con la interpenetración territorial de los servicios estatales (cap. III), y los conflictos fronterizos y sus métodos de solución (cap. IV). “Contrariamente al vocabulario generalmente adoptado por los teóricos del derecho internacional, aplicamos la palabra ‘frontera’ exclusivamente a la representación de un área territorial y la contrastamos con el término ‘límite,’ capaz sólo de representar la línea que, en la práctica territorial contemporánea, separa los poderes ‘ejecutivos’ de los Estados” (p.488). La Pradelle recuerda que esta distinción entre el

límite y la frontera no es una innovación y que se encuentran ilustraciones de ella tanto durante el Imperio Romano como en la Edad Media.

En este artículo, el autor considera que el concepto de “frontera” corresponde a un “régimen complejo, cuyo análisis se enmarca en el derecho público nacional e internacional” (p.488). Por lo tanto, recuerda que hay una frontera nacional y una frontera internacional. Después de la determinación del límite territorial, “el problema de la frontera renace en un aspecto estático. Consiste en eliminar, en una zona determinada, considerada como zona de transición, el rigor fundamental del límite tanto para el individuo como para el Estado” (p.488). Este es “el régimen administrativo de la colaboración fronteriza” (p.505).

La Pradelle examina asimismo las consecuencias jurídicas del límite para el individuo y para el Estado. En relación con el individuo, el límite político es el “signo material de su sumisión a un orden administrativo, a un determinado poder de restricción. Al cruzar el límite, se escapa de esta restricción. Por lo tanto, solo puede cruzarlo con autorización” (p.489). En esto se manifiesta claramente en lo escrito por La Pradelle la distinción entre la función jurídica principal de “límite territorial” (límite de valor político y jurídico) y la función jurídica de “control del respeto de este límite” por las autoridades de la Estado. En relación con el Estado, “el límite político tiene en principio un valor de separación absoluta de los poderes administrativos y ejecutivos” (p.489). Especifica que en el orden de las relaciones jurisdiccionales entre los Estados “los poderes legislativos son interpenetrables” y que “los poderes ejecutivos deben permanecer independientes” (p.489). El “límite” asegura precisamente esta independencia, y sirve como una línea de detención para el funcionamiento de los servicios públicos. En general, “el límite político de los Estados es un límite de competencia ejecutiva, no de competencia imperativa. Es un límite de efectividad, no de validez de la regla del derecho” (p.510). El hecho de que exista un límite estricto contribuye a perturbar tanto la vida de las personas como la vida política de las instituciones administrativas. El régimen de la frontera de La Pradelle responde a estos disturbios que surgen de la delimitación y toman la forma de convenciones bilaterales que ajustan la vida de los residentes fronterizos y la colaboración de los respectivos servicios públicos de los Estados.

Como dijimos anteriormente, para La Pradelle, la “frontera” en el derecho internacional es un área de colaboración que cruza el límite territorial y se extiende a ambos lados de este. El régimen jurídico de la frontera toma la forma de varios acuerdos de colaboración. Así pues, primero, el autor distingue

los convenios relacionados con los residentes fronterizos (convenios que se ocupan de la determinación del área fronteriza, la identificación del estatuto fronterizo, las medidas de control; y luego, de las situaciones específicas de los propietarios, usuarios y profesionales) (pp.489-500). Segundo, el autor considera las convenciones relacionadas con la colaboración de los servicios del Estado. En este caso, para el autor, la frontera es un lugar de colaboración de los servicios policiales (policía penal, aduanera, y sanitaria), un lugar de colaboración de los servicios de justicia (correspondencia directa entre fiscales y tribunales) y un lugar de colaboración entre servicios municipales (comunicación de archivos del estado civil, por ejemplo) (pp.501-505).

Con respecto a las convenciones de la población fronteriza, el autor basa la existencia y legitimidad de estas en el hecho de que el acto de delimitación perturba el ejercicio de la actividad individual. La delimitación misma puede eliminar efectivamente "un ambiente de cierta densidad económica y social" y privar a las profesiones "del radio de acción necesario para su ejercicio" (p.489). La Pradelle recuerda que los gobiernos estatales decidieron "suavizar la severidad del límite hasta que se borrara" tan pronto como se hicieran los primeros esfuerzos de delimitación (ibid.). Este régimen de facilidades ofrecidas a los fronterizos se remonta a los primeros años del siglo XIX. "Primero se aplicó solo a los propietarios de tierras, luego se extendió a la generalidad de los fronterizos" (ibid.).

Con respecto a las convenciones relacionadas con la colaboración local de los servicios de los Estados (pp.501-504), estas sirven para contrarrestar el efecto del límite que actúa como una línea de contención para el funcionamiento de los servicios públicos. Esto incluye servicios de aduanas, policía, justicia, y estado civil. Por ejemplo, a nivel de la colaboración entre los servicios de policía, citemos las convenciones sobre la represión de los delitos forestales, de caza, y de pesca. A nivel aduanero, citemos los efectos negativos del límite territorial y aduanero que luego se corrigieron mediante un reglamento en la vecindad de la frontera que permite la implementación de los poderes territoriales respectivos (vigilancia, represión) en beneficio del Estado vecino (aplicable pero sujeto al principio de reciprocidad).

Con respecto a las convenciones relacionadas con "la interpenetración territorial de los servicios del Estado" (p.505), La Pradelle afirma que "el régimen administrativo de colaboración fronteriza es solo una aplicación del principio de que el límite político es una línea de detención para la operación de los servicios del Estado. No tiene otro propósito y otro resultado que poner las competencias de cada uno

de los Estados limítrofes al servicio de la regulación local de su vecino para así obtener el máximo de eficiencia para él" (ibid.). De hecho, los acuerdos de colaboración fronteriza citados no autorizan a los funcionarios públicos de un Estado a llevar a cabo un acto administrativo al otro lado del límite territorial, es decir, en territorio extranjero. La Pradelle luego declara que varios acuerdos recientes ilustran un nuevo tipo de relación de vecindad que establece una "interpenetración territorial localizada" (ibid.) de los servicios de los Estados vecinos. Por lo tanto, estos acuerdos crean una excepción al principio del límite y el autor postula que es "el esbozo del futuro régimen fronterizo internacional" (ibid.).

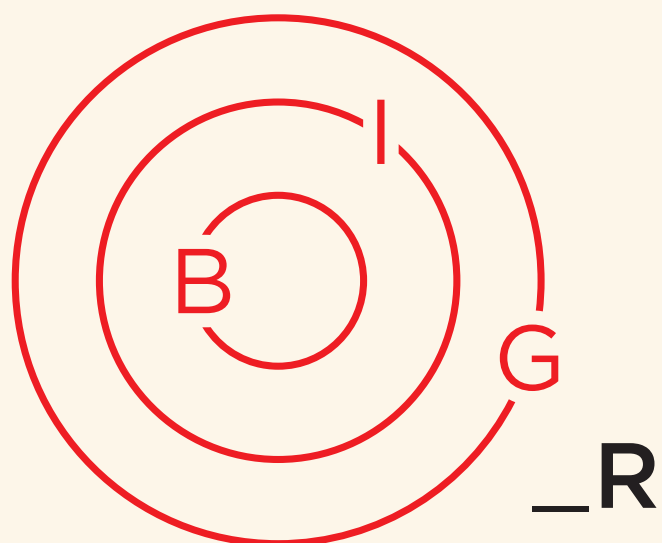
Conclusión

Con sus diversos trabajos, Paul de La Pradelle es un teórico clave para la investigación de los límites internacionales y las áreas fronterizas. Para este autor, la frontera internacional es un área, un lugar de colaboración, y no de oposición entre Estados. Según él, el régimen "fronterizo", un lugar de cooperación vecinal, es el principio. Y el régimen exclusivo del "límite" considerado como una línea insuperable para los servicios públicos, así como para los individuos, es la excepción. En el análisis final, la tesis de La Pradelle contiene una definición jurídica relevante de la frontera: "La frontera, una expresión tomada en su significado legal como una circunscripción espacial de los derechos ejercidos" (1928:11). En una historiografía del pensamiento científico sobre la frontera tiene tanto valor como, por ejemplo, la oración de Georg Simmel "la frontera no es un hecho espacial con consecuencias sociológicas, sino un hecho sociológico que toma una forma espacial" (1908:623) o el de Guillaume De Greef, en relación con las nuevas formas económicas "que necesariamente están destinadas a transformar las fronteras territoriales y de la soberanía actual y propiamente hablando en fronteras funcionales" (1908:311). Al final, el enfoque legal de "relaciones de vecindad" de La Pradelle, incluso si permanece en el nivel interestatal, parece ser muy útil para la conceptualización de las áreas transfronterizas que se están multiplicando en el mundo, especialmente en el continente europeo. En relación con viejos ejemplos de relaciones vecinales a través de las fronteras de los Pirineos, el autor Wentworth Webster habló de "convenciones municipales internacionales" (1892). Varios juristas han podido escribir sobre esta vecindad internacional (Andrassy, 1951; De Visscher, 1969; Pop, 1980). Pero entre la doctrina y la práctica estatal, hay un abismo. El concepto propuesto y defendido por La Pradelle es que la zona fronteriza no será retenida por la práctica del derecho internacional posterior. De hecho, observamos que la frontera se define jurídicamente como un límite interna-

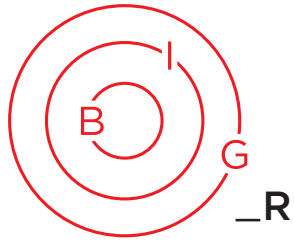
cional de los territorios del Estado. Por ejemplo, la Corte Internacional de Justicia ha enfatizado que “establecer los límites entre los Estados vecinos es trazar la línea exacta de intersección de los espacios donde se ejercen respectivamente los poderes y derechos soberanos” (1978:35). También observamos que el concepto de “zona fronteriza” había sido rechazado en una decisión de arbitraje: “En cuanto al uso del concepto de “zona fronteriza” no se puede, mediante el uso de un vocabulario doctrinal, agregar una obligación a los consagrados en el derecho positivo” (1957:307).

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FILM & BOOK REVIEWS



FILM REVIEW

Borders in Globalization Review
Volume 1, Issue 2 (Spring/Summer 2020): 121-122
<https://doi.org/10.18357/bigr12202019796>

***Kameradschaft* (1931): Representing Solidarity Beyond Borders in Face of Disaster**

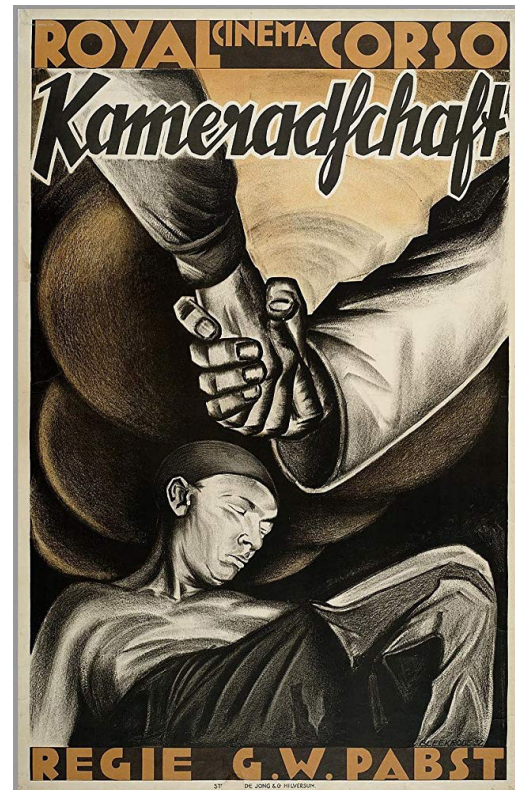
Eric Rigaud ⁱ and Aurélien Portelli ⁱⁱ

***Kameradschaft* (1931)**
Director: G.H. Pabst

Kameradschaft (“Camaraderie” in English), a 1931 film directed by G.H. Pabst, focuses on the participation of German miners rescuing French victims of a gas explosion deep inside a mine located at the border between France and Germany. The 1931 film is set after the Great War (WWI), but it was inspired by the 1906 mining disaster in Courrières, where 1,200 miners died due to a gas explosion and where Belgian and German miners participated in search and rescue operations. The first part of the film describes borders in physical, territorial, and identity terms—such as border crossing checkpoints, lines on the ground, gates, metallic bars underground, and linguistic-cultural differences—between French and German miners exploiting the same mine. The mine explosion leads to the intervention of the German rescuers crossing all the borders, from checkpoints to gates and language differences. Once the crisis terminates, authorities restored borders, premising an uncertain future.

Borders as representation of distance between two miner communities:

Around the same mine, a French and a German community of miners coexist, separated by a border crossing. Scenes show similarities in miners’ activities (digging, fire and gas monitoring, relationships with family) thereby demonstrating that they share the same occupational culture of the mining profession such as work organization, risks, fears, and leisure.



Both French and German adult men are likely to have been soldiers during the Great War. They mostly wished for peace and harmony, portrayed early in the film with two fathers scolding two kids who argue about marbles on both sides of a line traced on the ground by one of the kids, symbolizing the border between the two antagonistic countries.

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However, at a dance hall scene in the film, a simple language misunderstanding arouses nationalistic thinking. The food and dancing stop, and the French unite against the Germans, forcing them to leave. With the film set in 1931, during the Great Depression, the unemployed are not allowed to go to the mining entrance portal, and French authorities forbade unemployed Germans to cross the border.

Disaster as a catalyst to collapse of borders:

Suddenly, inside the mine, an explosion smashes brick walls, initiating the collapse of boundaries separating the two communities.

On the German side, a debate takes place about whether to help the five hundred French miners blocked in the mine. A search and rescue officer tries to convince others to intervene, while others refuse for reasons relating to security, negative stereotypes about the French, and a revengeful spirit after the French occupation of the Ruhr region. A chain curtain, where miners hung their clothes, separated the physical space into two parts. It accentuates the separation between workers. Finally, class solidarity around the risks and occupational similarities of the miners and their families transcend symbolic and national divisions and shatter all borders. The rescue convoy forces open the border crossing. The entrance portal of the mine is opened, and the Germans are welcomed not as invaders but as comrade saviors. Germans turn frustrations from the past into a catalyst for overcoming obstacles deep in the mine. Nevertheless, the disaster and cross-border mutual aid are not sufficient to erase all anchored antagonisms, as illustrated by a scene in which a traumatized French miner re-lives fights into the no man’s land he remembered from the Great War when seeing a German rescuer. Affected by the post-traumatic stress, he tries to kill him.

Restoring the border as dark omen:

Later, the customs barrier remains open. French miners cross the border to celebrate with their saviors. The radiant light of the sequence highlights the euphoria of

reunion. The speeches evoke the spirit of solidarity that unites miners beyond national divisions and differences of languages.

By contrast, the last sequence returns to the underground rooms at the border between the two countries. Workers are restoring metallic bars—border barriers deep in the earth—that had been destroyed during the rescue; the exchange of stamped administrative documents restores the relations of order. The authorities pull back and turn off the light, while the camera zooms out, ending on the metallic bars, filmed in long shot. The last image refers to an icy and dehumanized political reality and seems to predict a dark future for European societies.

Interrogation of collective actions during disaster:

At the beginning of the film, *Kameradschaft* illustrates conflicts and antagonisms between nations separated by borders in the European context of the thirties, marked by the Great War, the Great Depression and the rise of nationalist tensions. However, the body of the film shows worker solidarity based on occupational and familial similarities amid a risky work environment. The director demonstrates that the Marxist perspective of the working-class based on the spirit of internationalism among workers (underlined by the title of the movie) can be a catalyst for overcoming all the borders during disasters.

Today, climate change, globalization, and technologies increase the exposure of regions to unwanted transboundary events whose complex nature exceeds crisis management capabilities. The situation will be even more critical if the affected region is a borderland and the intensity cross-border cooperation is low.

The film interrogates the nature of the social phenomena that will structure transboundary collective action during disasters. While Marxist perspectives are nowadays dated, it is important to consider how the in-between borderland culture as evoked in the film—a consequence of historical and cultural proximity—induces trust and positive attitudes.



Cold War (2018): Tough Love in the Shadow of the Iron Curtain

Beata Halicka *

***Cold War* (2018)**
Director: Paweł Pawlikowski
(Academy Award nominee:
Best Director)

Despite what its title suggests, *Cold War* is not a war movie but a movie about a seemingly doomed love affair during the Cold War. Its main characters, Zula and Wiktor, are certain of their feelings and do a lot to give them a chance to flourish. At the same time, they cause each other pain as if they were groping around for the best solution to their relationship. Often, however, their decisions do not depend on them. Above all, it is the external factors and borders they encounter on their way which result in this not being a happily-ever-after love story.

Although the Cold War rumbles on in the background, viewers of this movie do not learn very much about it. Under Paweł Pawlikowski's direction, the film is concerned with the fate of individuals rather than grand politics. While those grand politics appear in the background of certain scenes, their consequences determine the fate of its main characters.

The first part of the movie is set in a war-ravaged Poland in 1949, a country in which a communist-run government places great emphasis on education of the young and the social advancement of society's lowest ranks. Wiktor is a musician and is involved in creating a new song and dance group "Mazurek" which, in promoting folk music, is meant to be a cultural showpiece of a new socialist Poland. Zula is a beautiful and talented girl who, having torn herself away from a dysfunctional family, is determined to become part of this new group and thereby change her life. The price of success for



Wiktor is subjugating himself to political pressure from the new government which, apart from folk music, expects him to perform ballads praising Stalin and Poland's communist rulers.

The limits imposed upon him only serve to increase Wiktor's need for freedom, with the artist imagining

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that he will somehow manage to get to the West, beyond the Iron Curtain. When his folk group travels for a concert in East Berlin, he plans to escape along with Zula. In 1951, Berlin had not yet been divided by a wall while the demarcation line separating both parts of the city was only subject to selective controls. Wiktor manages to get across this boundary with no problem. However, he does this alone as Zula, having weighed the success she has achieved in the group "Mazurek" against her professional prospects in France—not knowing either the country or the language—decides at the last minute to remain in Poland.

The subsequent fate of these two characters are far from the usual clichés according to which those who manage to escape from the Eastern Bloc to the West find the good life, enjoying freedom and opportunities for personal development. Although Wiktor does in fact easily find work as part of a jazz band and enters the artistic milieu of Paris, he does not feel content there. The feelings of loneliness and alienation typical of immigrants are his constant companions. Even when Zula joins him after several years, things don't work out very well. In order to draw the attention of employers to this talented Polish songstress, Wiktor reveals painful and intimate details of her life. To achieve a desire of making a solo record, Zula is forced to pay a high price. The fate of an immigrant from a country which—in the view of the French—is a far-off land somewhere in the east, leads to numerous humiliations. Being both proud and aware of her own

value as an artist, Zula does not want to accept this. As she had come to France legally, the decision to return to Poland comes easier to her. In the view of the Polish communist authorities, however, Wiktor is both a traitor and a political exile. When he decides to follow his beloved back to his homeland, despite warnings not to do so, he is arrested and receives a long sentence in a prison camp.

The Cold War which divided the world into two camps does not allow people to move freely across the Iron Curtain. Those who manage to achieve this, despite all odds, must pay a high price for attempting to build their own individual happiness, as well as discover their own insignificance regarding the judgment of history. In this war, it is not individuals who matter, but money or the system. Thus, this movie is not only a love story from a period which has passed into history but a universal tale about two people caught up in a machine enveloping their world.

Following the success of *Ida* (2014), which received an Academy Award for Best Foreign Language Film, Pawlikowski has created in *Cold War* another unforgettable picture. It is even more credible in that the director himself could draw on his own personal experience of life in exile. At the age of 14, he left communist Poland with his mother for the United Kingdom, later living in several other countries. It is no accident therefore that he has dedicated the movie to his parents—Wiktor and Zula.



Border Aesthetics: Concepts and Intersections

Emmanuel Brunet-Jailly

Johan Schimanski and Stephen Wolfe
(editors)

***Border Aesthetics:
Concepts and Intersections***

New York and Oxford: Berghahn Books

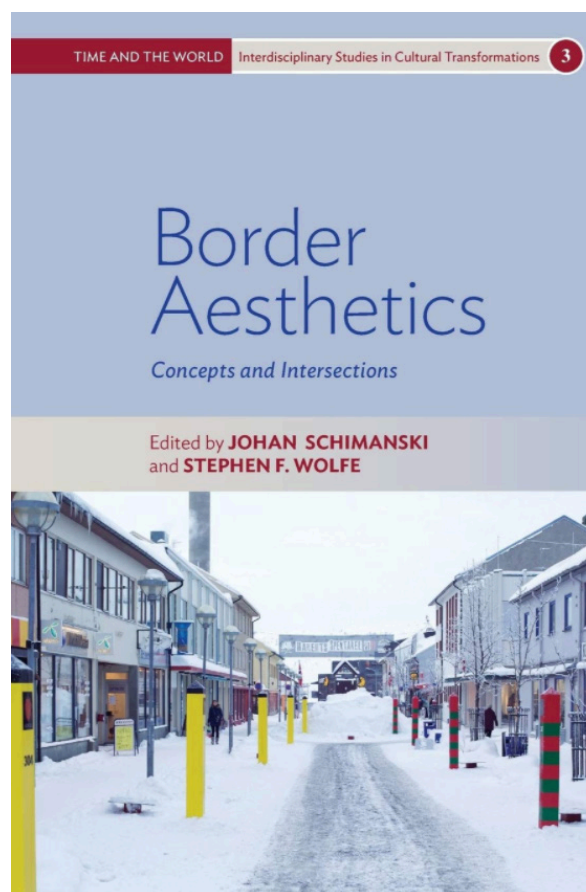
188 pages, 5 illus., bibliog., index

Hardcover (2017)

eBook (2017)

Paperback (2018)

Johan Schimanski and Stephen Wolfe have undertaken a study of the aesthetics of borders in *Border Aesthetics: Concepts and Intersections*. The philosophical tradition of aestheticism involves complex analyses of “the beautiful and the ugly, the grotesque and the sublime” (p. 4). This dense theoretical text contains six chapters masterfully co-edited and co-written so as to echo themes in both the introduction (Mireille Rosello and Wolfe) and in the conclusion (Schimanski and Wolfe). Despite their wide-ranging organizing principles, the chapters, “Ecology” (Rosello and Timothy Saunders), “Imaginary” (Lene M. Johannessen and Ruben Moi), “In/Visibility” (Chiara Brambilla and Holger Pötzsch), “Palimpsests” (Nadir Kinossian and Urban Wråkberg), “Sovereignty” (Reinhold Göring and Schimanski) and “Waiting” (Henk van Houtum and Wolfe) interconnect and speak with each other. In the form of a glossary, the conclusion comes back to each of the six themes and also maps out the linguistic terrain of border studies by categorizing



and defining dozens of terms of with as well as a work where language is the terrain of aesthetic inquiry for border scholars. In all, the book is primarily concerned with the aesthetics of borders in the area of cultural production, identifying borders as primary sites of such aesthetic productions. The

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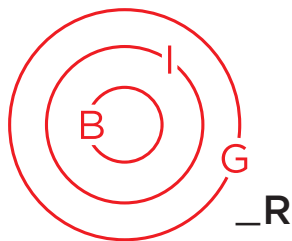
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result is an interdisciplinary theoretical analysis of border aesthetics in literature, audio-visual, ecology, political culture, and migration.

Thus, the authors collectively offer a 'philosophers' walk' across discussions of border aestheticism, looking at language, politics, and representations—ugly or beautiful—but also, discussions of cultural and postcolonial studies that question wider issues of identity, sovereignty, and law. It is a 'philosophers' talk' that questions the ethics of enquiry into otherness in a postcolonial era, underscoring tensions across times and spaces. The ecological lens explores a world where the territoriality of ecology is a challenge to nascent forms of ecological community. The imaginary lens engages with some of the ugly aesthetics of borders, with their monsters on the other side, through explorations poetry and other literary genres. The in/visibility of the border is a more disturbing aesthetic of the

seen and unseen, of the policing of politics, and of troubling hegemonic and dystopian forms. The palimpsests further explore the visibility regimes to call into question their aesthetic borderscapes; the chapter looks back at the Soviet era in particular. The sovereignty lens questions the border directly. Sovereignty and its facets both of fierce defence of the border and of self-determination ignore what sovereignty means for borderlanders. Its case study is a parable found in the inimitable Kafka's Odradek's figure. The chapter on waiting is possibly my favorite, in part because it uses another famous Kafkaesque text "Waiting for the Law" as a metaphor for Foucauldian internal subjectification.

The intent of this brief review has only been to pique the reader's interest. *Border Aesthetics* may not be an easy read for the breadth of its reach across many literatures, but it is an elegant and important contribution to the literature on borders.



New Grounds in Border Studies

REVIEW ESSAY

Emmanuel Brunet-Jailly *

Chiara Brambilla, Jussi Laine, James Scott, and Gianluca Bocchi (eds). *Borderscaping: Imaginations and Practices of Border Making*. Abingdon: Routledge, 2017

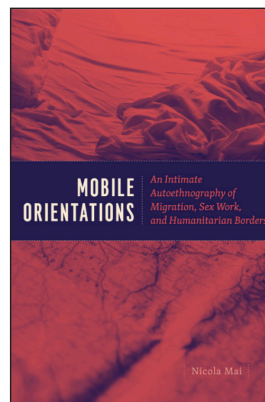
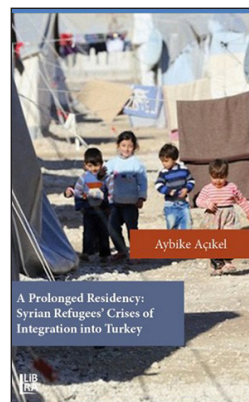
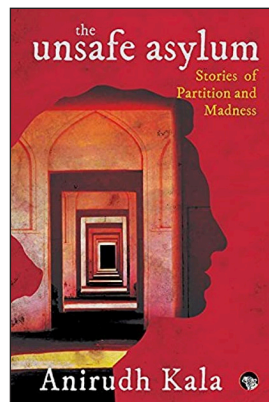
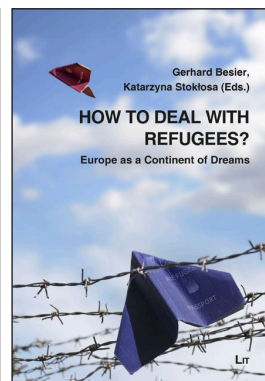
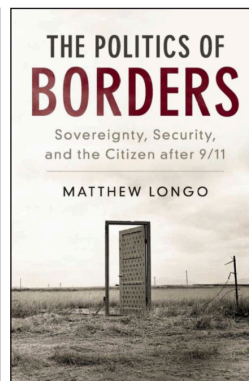
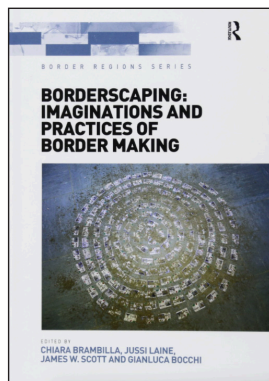
Matthew Longo. *The Politics of Borders: Sovereignty, Security, and the Citizen after 9/11*. Cambridge University Press, 2017.

Gerhard Besier and Katarzyna Stoklosa (eds.) *How to Deal with Refugees? Europe as a Continent of Dreams*. Zurich, Switzerland: LIT Verlag, 2018.

Anirudh Kala. *The Unsafe Asylum: Stories of Partition and Madness*. New Delhi, India: Speaking Tiger Publishing, 2018.

Aybike Açikel. *A Prolonged Residency: Syrian Refugees' Crisis of Integration into Turkey, Istanbul*. Turkey: Libra Kitap, 2018.

Nicola Mai. *Mobile Orientations: An intimate Autoethnography of Migration, Sex Work and Humanitarian Borders*. University of Chicago Press, 2018.



In the last few years border studies have expanded thematically and across disciplines. The field of border and borderland studies is now truly interdisciplinary, and numerous new books are published yearly. This review essay comments on six paperbacks: indeed, some of these are volumes that are re-issued, indicating the growing maturity of the field but also the greater expected distribution of border research. These were published during the academic years of 2017-18. I review them in an attempt to document some of the key debates that are emerging, and to a limited extent also, debates

that are changing the discussions in border and borderland scholarship.

In 2014, Brambilla *et. al.*, co-edited a beautiful volume called *Borderscaping: Imaginations and practices of border making*; I am reviewing here the second edition that came out in 2017 in paperback. A collection of twenty-two chapters, the book is organized in five sections that discuss borders from the perspective of borderscapes, a reference to the possibly uneasy demarcation of landscapes and thus particular negotiations between thinking borders

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and the processes of bordering and their application in various exemplary spaces: the southern European Mediterranean region, cities and their urban and rural manifestations in borderland regions, and the nature of thinking and seeing borders and borderscapes beyond space and territorialities across identity and art formations.

The front-end chapters are more conceptual. They discuss border imaginaries, power, resource and geo-graphies/representations. The core chapters focus on various illustrations of borderscapes in the media, museums, literary narratives or their social manifestations. They also look at aesthetic counter-hegemonic actions—these are rich chapters that contribute to expanding our thinking about borders well beyond the territorialist reference to boundary lines, and suggest many other instances of bordering that engage with social science, as well as literatures and other visual art forms—which often trespass spaces, or transgress ideas, emotions or indeed our imaginaries as well. They challenge established representations, visions of what a border reality is all about.

Brambilla's collection's primary contribution is that borders offer a distinct sensible perspective on power and space. Indeed, what borderscapes does is discuss with elegance the relativity of any boundary lines, or borders, to underscore the continuous construction and reconstruction of borders, the mobility and layered complexity of borderlands imaginaries, narratives and their multifaceted representations in, for instance, bordering minds and spaces well beyond international boundary lines. What Brambilla and her co-authors do not explore as much, however, is one aspect of border production, which emerges from the politics of borders.

Matthew Longo's *The Politics of Borders, Sovereignty, Security and the Citizen after 9/11*, drawn from his dissertation, is also a must. Indeed, while it is a catchy title for a book; it is a measured, primarily theoretical discussion grounded in limited but serious field work that broaches theoretical and contemplative thoughts on 21st century borders. Indeed, *The Politics of Borders* is primarily a political-philosophic reflection on borders (thick and thin). The book is organized around six chapters in two thematic sections: "The Perimeter" (with chapters exploring borders as walls, as meeting points of sovereignty, and in the context of empire), and "The Ports of Entry" (with chapters on big data, the politics of trust, and the future of security). The first part on the perimeter is very strong—*please come in, let us tax you*, and trade flow logics follow, suggesting our world of borders is very real but may be not just about states' territoriality. In the second part of the book, the Ports of Entry section is more speculative, joining shoulder to shoulder ideas around filtering data, management of data, and the decline of citizen privacy. States

know about us already. There is profiling. It is done, and to a significant extent in some cases. The goals may be about profiling specific (risky) people but what this means is far from clear. The state is terrified because it understands what can be done, how data can change everything; hence the question is how do states manage data. China's Uighurs are not discussed here, but we have a sense of what those questions mean everywhere. This is not a dystopian discussion anymore: it confronts us today.

For Longo, the border is a place of definition and delineation, but also an in-between. The book draws from some field work but really is a discussion of political philosophy where the likes of Gloria Anzaldúa, Salman Rushdie, Giorgio Agamben, Michel Foucault, Will Kimlicka, John Locke, Machiavelli, Jean Jacques Rousseau and James Tully provide the real material to be contended with. The questions raised in this book engage us with the tough "what are borders in the 21st century?" And, this is where the conclusion keeps us on our toes, summarily pointing to machines, perverting democratic institutions and values, and where the rule of law does not protect as it used to. This is a book that will stay and that all students should read and contend with—it is here to stay because it articulates a lot of issues most scholars studying borders contend with when they try to make sense of the data they collect in the variety of case studies we collectively work with. What I would have liked to read as well is more discussion of the concrete evidence that we already have of some of the issues, especially in part two of the book. It is a necessary remark because if we want to engage with policy makers we need people to be more and more aware of what, in empirical and quantitative terms, political philosopher Longo suggests.

This reader found *The Unsafe Asylum* by Anirudh Kala also an important contribution. This is a set of thirteen short fictional stories based on the psychiatric trauma witnessed by Dr. Kala, the former president of the Psychiatrist Society of India and Pakistan. Today, Dr. Kala heads the Department of Psychiatric at the local hospital in Ludhiana, Punjab/Himachal Pradesh, India. Obviously, none of these stories are witness testaments of traceable individuals but they are the poignant results of years of psychiatric practice in a region where people still discuss their own experiences of the bleak year of 1947 when British India subdivided into two, then three, new and internationally recognized states, India and Pakistan, then Bangladesh (noticeably unknown though is that Punjab, then the largest state of British-India was consequently subdivided in four: Punjab in Pakistan, Punjab in India as well as Himachal Pradesh and Haryana also in India).

These thirteen short stories draw the reader in and out of the madness that unfolded across the Land of Seven Rivers and where today, one of those rivers, the Ravi river, flows along the boundary line separating Pakistan

and India; indeed, this is the region that was the bedrock of the Indus Valley civilization, a region that was, before the Mughal conquest, a Hindu-Buddhist region, also known for its high civilization. By the time of the British Raj conquest, the Mughal Empire was considered to be the world's largest economic and industrial power. Punjab then was religiously diverse yet it was also rooted in deep layers of varied languages, arts, industries and other cultural similarities.

"No Forgiveness Necessary" describes the long and hard day of a young Hindu psychiatrist, who is shot dead at dawn on his bicycle on his way home. In "Belly Button" a school teacher born in 1947 escapes his extremely uneventful and clocklike life on a chance to visit his birthplace and meets with the nurse who delivered him; she says to him "I did deliver you nice and safe. But there was a mob carrying mashaals and yelling like all the fiends of Hell as they rampaged through the lane, barely five feet from where you were born. I was trembling all over when I tied the cord. Normally my handiwork is much better" (p. 51). Mashaals are fire-torches, a detail of some importance. In "Partitioning Madness" three psychiatrists discuss what happened in 1947 when only 450 "non-Muslim lunatics" (p.49) were moved from the Pakistani to the Indian side of Punjab; when asked, the medical superintendent explains: "The Lahore hospital reports of 1947 say it was cholera" (p. 53), but, as the conversation goes on, "Would cholera kill just one religion? GOK. GOK? God Only Knows..." (p. 71). In "Sita's Bus", a young woman wakes up a little lost and is told by a nurse "...when the families ask for repatriation, the protocol includes consent for abortion... I have seen hundreds of them. Nobody ever wanted to have a woman back who is pregnant... so the state is doing what the families want. They have allocated a special fund for this" (p. 90).

Maybe this is enough of a detailed review to underscore how boundary line and borders are violent (a reference to Reece Jones' works). Indeed, we, as border scholars, know that they are, yet few of us actually have had physical experience of that violence. What Dr. Kala's profound reflection on the 1947 trauma of partition across the Indus Valley suggests though is that such trauma inhabits the soul of people and borderland communities for generations beyond the creation of the international boundary lines: today, the respective populations of Pakistan's Punjab, and of India's Punjab, Himachal Pradesh and Haryana totals 175 million people.

Another small book that looks at the impact of borders on people is *A Prolonged Residency* by Aybike Açikel. This is a quick read, where the author reviews and assesses the situation of Syrian refugees in Turkey. In this book we learn about what happens when people move away from home into a foreign land, in particular what has happened in Turkey when refugees from Syria started crossing the border that separates the

adjoining countries. We learn that they lose nearly all their rights, that welcoming countries are rarely equipped to welcome newcomers.

The book is organized across five sections: an introduction, three substantive chapters, and a conclusion: chapter one reviews the literatures and definitions for migration, integration, asylum and then the legal frameworks available in Turkey to determine the status of migrant, asylum seekers and refugees. Chapter two, focusing on Syrian refugees, details how those refugees became a crisis, and questions how in Turkey their status was determined. Chapter three is a review of how refugees were, or were not, integrated or integrating in Turkish society, culturally and economically, and also asks whether the way it is done in Germany has any applicability in Turkey. Açikel compares the strength and weaknesses of both policy sets. The comparison of Germany to Turkey usefully gives the reader a sense of what has been done elsewhere; in Germany immigration and refugee policies are not a response to the Syrian crisis and addresses a multitude of aspects required by a comprehensive immigration integration strategy. The author's assessment is that the attempt has not been very successful. The breadth and success of Turkish policies implemented in response to Syrians' mobility into Turkey over the last 10 years remains superficial.

This book's overarching themes include defining migrants, immigrants, asylum seekers, refugees, and with a view to confront international public law and standards. Clearly, countries are not aligning with those standards today but rather implement regulatory systems that address national and local issues at best.

Açikel is ambitious when trying to assess how successful Turkish integration has been; in particular when considering integration from a multi-pronged approach with regards to economic, social, cultural (linguistic), but also particularly religious or ethnic or even legal factors. All in all, it is too ambitious for a small book to systematically document successfully such a complex situation and policy answers.

What we learn, however, that is interesting, is primarily that the migration "open door policy" (p.11) Turkey implemented was initiated as early as 2009 (not 2014-2015); also, we learn that the first Turkish policy answers assumed the issue would be short term and go away (that it did not, we know). We also learn that Syrians were submitted to specific labor laws (the Foreign Employment Law) as late as 2016, that those policies attempted to draw Syrians away from illegal labor status into a registered and legalized lower working status, and with conditions that would fill labor needs without creating a situation of competition or of resentment among the Turkish population. To this day, the system continues to struggle with identifying people, a process that remains particularly difficult.

In conclusion, the author suggests that while Turkey has developed legislation to adapt policy to unexpected situations, this has led Syrians to leave refugee camps to take jobs with or without registration as illustrated by the continuous limited take on the Turkish health system. It has also led to much increase in violence, in particular against Syrian women, specifically "unregistered women and children" (p. 122) including rapes, forced marriages and domestic violence.

Understanding the impact of refugees into Turkey is only part of the picture and *How to deal with refugees? Europe as Continent of Dreams* by Gerhard Besier and Katarzyna Stoklosa, is a particularly interesting edited collection because it brings together 20 co-authors of 16 chapters that discuss the complex question of why mobility is on the rise, why people are moving towards the European Union, and what new migrants mean for destination continents and countries, and what kinds of stress, and sometimes trauma, destination countries have to deal with when migrants arrive. The book has three sections; part one focuses on issues arising from increased refugees in the past and today across a few European countries. In the second part, the authors reflect on emerging problems, and inquiries around ethical as well as cultural and religious questions are discussed in the third section.

Johannes Maria Becker and Katharina Becker look at migration triggers around the Mediterranean region and Middle Eastern countries. Their plea is for a European respect of international asylum rights and a limitation on arm sales to countries of origin. Konrad Ott and Moritz Riemann focus on why people leave and seek asylum. They argue that there are three central reasons: a necessary (preventive) escape is one, persecution and escape are a continuum of categories all of which are linked to asylum decisions. In the end, the authors argue new categories and cooperation are necessary to address climate and violent migrations. Then, Katarzyna Stoklosa compares two immigration periods in Hungary; the 1980s is compared to the 2015 crisis. The author argues that a major difference is the religious origins of the migrants and a shift of context: Hungary is now an established member of the European Union and has policies in line with Austria's. Focusing on Sweden and Finland, Jussi Laine and Daniel Rauhut document the frustration and anger that emerges when refugees realize there is a significant gap between their dreams and reality in their country of settlement. Indeed, many end up in overcrowded facilities in the northern regions of Finland or Sweden and live on social assistance, without work because of skills, language, or red tape issues. Using a social networks perspective, Julia Schulze Wessel's paper is particularly interesting because it suggests refugees and migrants change the politics of places and thus issues of democracy and demarcation. Looking at individual perception, Jessica Ortner's chapter is a study of literary works

engaging with memorialization and postwar trauma; the returning soldier, the Sudeten German expulsion. In the same vein, the work of Elisabeth Oxfeldt is a literary analysis of class confrontation and discomfort in Scandinavia. Guadalupe Correa-Cabrera and Arthur Sanders Montandon discuss similar issues but in North America; although interesting the chapter is a bit out of place in this book exclusively focused on European experiences.

In part two, Lukas Schmelter suggests that governments are held back because of the lack of engagement and support from people across the European member states. Heike Knortz, looking at migrants into Germany, suggests that they do not have the skills needed to integrate. Documenting the experience in the Arctic regions of the EU, Ekaterina Mikhilova suggests that there is a correlation between migrants' origin and their treatment in Arctic countries. Although overly ambitious, Dawid Bunikowski's chapter deals with data from Sweden, Finland and Denmark and many policy areas. In the end though he suggests that stricter migration rules are needed. Finally, Joni Virkunen suggests that increased inequality in Finland is of most importance to understand support for asylum seekers in Finnish society.

In the last section of the book, Wielant Machleidt and Iris Tatjana Graef-Calliess suggest that a cultural therapeutic gap has to be considered to understand adaptation to countries of destination. Gerhard Besier suggests that there is a little theological common ground between the Islamic, and Christian and Judaic tradition. Finally, the last chapter, by Jussi Laine, suggests that the European Union focus on market security has consequently led to loss of sight of fundamental issues of global mobility.

All in all, this is a rich discussion in which many of the papers are driven by well-informed political views and interesting suggestions of policy implications; the works are highly interdisciplinary and also loosely organized by themes about how the European Union's central and northern member states have struggled in the past and more recently to welcome migrants. The works describe a number of situations in which humanist views dominate but also views that question the political rationales and policy preparedness of the few concerned EU member states.

Focusing on migrants' own stories is possibly the hardest and most demanding, yet most rewarding, of ways to understand why people are mobile or make risky mobility decisions. Twenty years in the making, *Mobile Orientation: An Intimate Autoethnography of Migration, Sex Work and Humanitarian Borders* by Nicola Mai, is a fabulous book.

Mai details the many stories of lives in the borderlands and transitional spaces of Europe. The resulting work

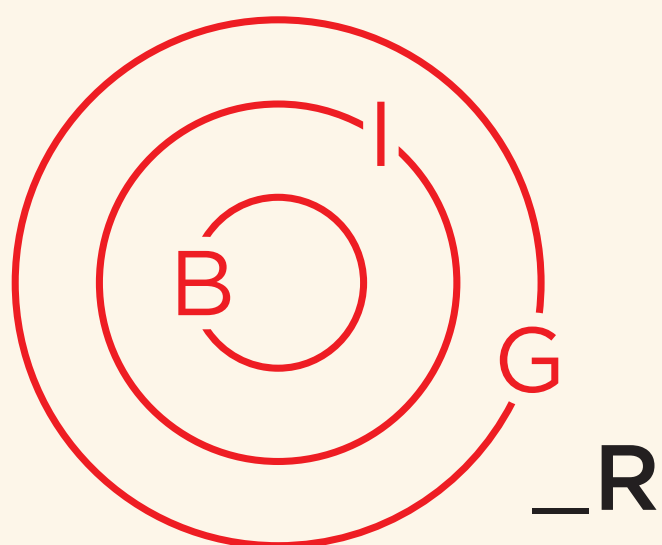
is wonderful because it is a very sensitive, and very subtle, ethnographical analysis of the motivations, resources, and identities, available to individuals caught in the webs of great resourcefulness yet much poverty that entangle migrants caught in transition between countries of origin and countries of destination. In the end, Mai is confronting literatures about sex work and human rights, but also about gender and mobilities across borders both physical, psychological, and metaphorical: his approach is critical of humanitarian border and migration perspectives.

The book is organized in nine chapters, an introduction, and a conclusion. An Intimate Autoethnography is a review of methodological discussions. The reader is then drawn into the matter at heart in chapters two, three and four ("Engaging Albanian (and Romanian) Masculinities", "Selling *Comidas Rápidas* in Seville", and "Boditarian Inscriptions") that are de facto outstandingly rich case studies. Chapter five ("Burning for (Mother) Europe") contextualizes the research in greater detail but is also, in a way, a transition toward much more analytical chapters: six, seven, eight, and nine include "Trafficking and Migration", "Love, Exploitation, and Trafficking", "Interviewing Agents", and "Ethnofictional Counter-Representations" where the author makes his core argument in strides: Mai writes "I have elaborated the concept of 'mobile orientation': socioculturally framed alignments between objects, mobilities and self-representations that frame the emergence of subjectivities. These orientations are mobile, both because they reflect young people's existential aspiration to social and spatial mobility through migration" (p. 192). What is resulting for Mai

is a "liquefaction of modes of production, gender roles, authorities, and moralities" (p. 192).

He concludes thus that "migrant sex workers' pragmatic understandings and experiences of agency on the basis of their 'wants and needs'" (p. 191) is core to understanding both personal and structural transitions in a neoliberal context in which individual construction and agency cannot be dismissed. Obviously controversial, his critical analysis of migrant sex workers should be read by many, in particular those that are concerned by modern forms of trafficking and slavery. His findings are the result of an original methodology, the use of filmmaking, to deconstruct social humanitarian views. In Mai's own words, "I challenge the onto-epistemological distinction between emic (culture-internal) concepts and the etic (cultural external) theories of observers, a distinction that usually characterizes ethnography" (p. 10) to shade new knowledge on the lives, dreams, desires and agency of migrant sex workers in borderlands. In sum, this is a wonderful text and the research findings are counterintuitive; people's awareness, identity formation, and agency are just so well discussed. It is also really interesting from the perspective of borders, both physical and territorial borders, but also individual and internalized—psychological—borders; and the malleability of those personal representations and impacts on people's psyche.

In sum, 2017-18 marks the beginning of a great period for grounded and theoretical research in border studies. This is a rich period of expanding concepts and retheorizing borders and migration, and also of expanding and emerging discussions that link the borders and migration literatures.



ABOUT



About the Journal

Focus and Scope

Borders in Globalization Review (*BIG_Review*) provides a forum for academic and creative explorations of borders in the 21st century. Our interest is advancing high-quality and original works in policy, social sciences, the humanities, and fine arts that explore various aspects of borders in an increasingly globalized world. *BIG_Review* publishes scholarship (academic articles, essays, research notes, book reviews, and film reviews) as well as artwork (photography, painting, poetry, short stories, and more). The journal is committed to peer review, public access, policy relevance, and cultural significance.

Our starting point is that borders offer metaphoric-conceptual tools for the study of differentiation and integration. This perspective mandates a wide range of artistic, theoretical, and empirical explorations of borders. The journal is especially interested in advancing the study of the borders of globalization. New research is documenting a shift in the logic of borders from spatial and territorial to functional and aterritorial. This means that borders are increasingly detached from territory, operating as mobile and relational nodes in increasingly complex regulatory frameworks. For example, border screening often happens far from the border, and goods and people are increasingly bordered 'on the go' with microtechnology and biometrics. Simultaneously, global processes challenge the territorial foundations of borders, including subnational and transnational pressures, the virtual flows of global finance and big data, the spread of infectious disease, and the effects of climate change. These developments impact culture and politics, including understandings and contestations of identity, citizenship, law, nationalism, gender, and Indigeneity.

The borders of globalization are being established in a variety of spaces—not just in borderlands. Like a shifting puzzle, their infrastructures and institutions interlock in kaleidoscopic geographies and modalities

across world, though not always visibly. *BIG_Review* offers a platform to visibilize, problematize, and discuss how these borders are changing and how they affect all other borders, physically, of the mind, of social groups, and across cyberspace.

The journal also advances original artwork related to borders. Borders capture the popular imagination and inspire creative works. Artwork reflects and influences the cultures that shape borders. Sometimes artwork is subversive of borders. *BIG_Review* connects artists to audiences around the world through wide distribution networks and open-access electronic editions. Our art pages showcase individual works as well as portfolios, including photos, paintings, poems, short stories, fiction reviews, and more. All art is published at no cost to the artists.

Peer Review

Each academic article and essay considered for publication in *BIG_Review* undergoes at least two double-blind peer reviews from our international Editorial Board (board members are listed at the front of this issue and on our journal home page). In the event of a split recommendation, a third (and sometimes a fourth) review may be obtained. Publication decisions are based on these reviews.

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Print Copies Available

While *BIG_Review* is free for reading and sharing in electronic formats, you may also order full-colour hardcopies (8.5"x11"), printed and bound in soft cover by University of Victoria Printing Services, for \$45 (Cdn) each, plus shipping and handling. For multiples or subscriptions, \$40 (Cdn) each, plus shipping and handling.

Publication Frequency

BIG_Review is published twice annually:
In spring/summer and fall/winter.

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Borders in Globalization Books (*BIG_Books*) shares an editorial board with *BIG_Review*. The focus and scope of the books are the same as the journal, except the books publish only academic content, not artistic or fictional. Learn more at [BIG_Books](#).

History

In 2018, *Borders in Globalization*, a Research Lab of the University of Victoria, British Columbia, Canada, established *Borders in Globalization Review* (*BIGR/BIG_Review*) and the Borders in Globalization Book Series (*BIGB/BIG_Books*). Both publish online, open access, double-blind peer-reviewed manuscripts about the borders of globalization..

Funding and Support

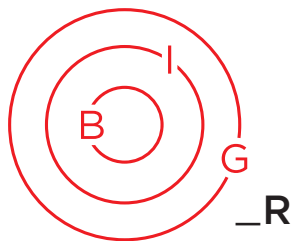
BIG_Review is funded and supported by the *Borders in Globalization* research program (BIG). BIG received funding from the *Social Sciences and Humanities Research Council of Canada* (SSHRC) Partnership Grant (Grant no: 895-2012-1022), and from the *Erasmus+* programme of the European Union (the European Commission's support for the production of this publication does not constitute an endorsement of the contents, which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein).

In order to continue publishing high-quality and open-access work in the absence of secure, long-term funding, *BIG_Review* aims to become self-sustainable through publication fees for academic submissions and advertising revenue.

The *Centre for Global Studies* at the University of Victoria provides office space and support. The journal is hosted online by *University of Victoria Libraries*.

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BIG_Review reserves space for paid promotional content in the social sciences, humanities, and fine arts, including advertisements for new books and other publications, special events, calls for papers, courses and programs, and more. Full and partial page insets will be made available on the inside of the front and back covers. A full-page ad on the inside cover costs \$1000 (Cdn); a half-page ad space costs \$500 (Cdn); and a quarter-page ad space costs \$250 (Cdn). At the back of the journal, a full-page ad space costs \$200 (Cdn); a half-page ad space costs \$100 (Cdn); and a quarter-page ad space costs \$50 (Cdn). Ad proposals should be submitted as PDFs directly to our Chief Editor. All inquiries welcome. *BIG_Review* reserves the right to reject ad proposals on any grounds.



For Contributors

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BIG_Review publishes **scholarship** (academic articles, essays, research notes, book reviews and film reviews) as well as **artwork** (photography, painting, poetry, short stories, and more).

Scholarly submissions should engage with the research literature on borders, including, for example, borderlands, borderscapes, and bordering processes. We are interested in studies that go beyond the 'land image' by exploring borders as non-contiguous, atterritorial, globalized, mobile, electronic, biometric, functional, etc. We are equally interested in border studies from Indigenous perspectives, along with questions of sustainability, climate change, global health, colonialism, and subnational and transnational identities. Research questions might include: What are contemporary challenges to borders, internally and externally? How are borders adapting? What challenges do borders pose for communities and for people in transit or seeking asylum? How are cultures shaped by borders, and vice-versa? How are technologies shaping borders? We encourage innovative theoretical work and explorations of borders widely construed, as well as empirical and quantitative research. We welcome scholarly submissions from all disciplines and backgrounds.

BIG_Review also promotes **artistic submissions** pertaining to borders (borders understood broadly: political, social, cultural, metaphoric, personal). Borders can capture the popular imagination and inspire creative works. Artwork can reflect and influence the cultures that shape borders. We promote small portfolios and individual works, including original poems, photos, paintings, short stories, creative essays, film and literature reviews, artistic commentaries, and other forms of art. Artists retain copyright of their work and benefit from increased exposure at no cost to them.

For technical submission requirements, see below.

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Each academic manuscript considered for publication in *BIG_Review* is submitted to at least two members of the Editorial Board (or other qualified scholars) for double blind review. In the event of a "split" recommendation, a third (and sometimes a fourth) review may be obtained. Publication decisions are based on these reviews.

The editors notify authors as early as possible as to whether their paper has been accepted for publication. Selected manuscripts are assigned a member of the editorial team, who will work with the author to address any outstanding issues concerning style or substantive content prior to publication. Papers that do not abide by the publication's style guide may not be accepted. Once revisions have been completed, copyediting and production are provided by *BIG_Review*.

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this fee. The fee allows author(s) to publish work that is both refereed and shareable with friends, family, and social media. The fee only applies once to academic articles and essays that have been approved and prepared for publication. There are no fees for submissions that are not approved or prepared for publication, and there are no fees for book or film reviews or for any artistic submissions (paint, poetry, story, etc.).

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Articles (social science and humanities papers that advance academic disciplines through research, data, and theory) should be between 7000 and 10,000 words in length.

Essays (including literature reviews, persuasive writing, opinion pieces) should be between 1000 and 4000 words, using few references (fewer than a dozen, except for literature reviews, which may include more).

Research notes (engaging with single concepts, terms, or debates pertaining to border studies) should be between 750-1200 words, using few references (no more than five).

Book reviews (summarizing and analysing academic monographs relating to borders) should be between 500 and 1000 words.

Film reviews (summarizing and analysing film and television relating to borders) should be between 500 and 1000 words.

Submissions must be written in English (although we also consider French and Spanish submissions).

Citation style should adhere to **Chicago “author-date” manual of style**. This means all citations are contained inside parentheses within the text, listing author(s) last name, and the year of publication (and pagination when appropriate, especially following quotations). Complete bibliographic details of all references are contained in Works Cited at the end of the manuscript, listed alphabetically by author last name, with year of publication preceding work title.

All references to academic journal articles must include **DOI weblinks or stable URLs** at the end of the entry. This increases the exposure of your work.

All academic articles and essays must include an **abstract** (75-200 words) that summarizes the paper, including the main argument or findings, the disciplinary background or approach, and any research literatures or theories substantially utilized.

Endnotes may be used for substantive observations but not for the primary purpose of citing sources (though endnotes may include citations). Endnotes must appear separately at the end of the body of the manuscript. The use of footnotes is unacceptable and may result in the manuscript being returned to the author for revision.

Submitted text is double-spaced with an extra line between paragraphs, uses 12-point font, employs italics rather than underlining (except with URL addresses). Only one space between sentences (do not add a second space between sentences).

All illustrations, figures, and tables are placed within the text at the appropriate points, rather than at the end (or markers are used within the text to indicate placement).

Submission files must be Microsoft Word (.doc or .docx) file format.

All academic article and essay submissions must include two documents: a) an anonymized version (to be shared with prospective blind reviewers); and b) a separate copy of the title page alone with all author contact and affiliation information.

The submission has not been previously published, nor is it before another journal for consideration (or an explanation has been provided to the editor).

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Visual art (photography, painting, etc.) and other visual art must be high-resolution, BMP, JPEG, or PNG, including separate captions.

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All submissions must be previously unpublished and not simultaneously before other publishers for consideration, unless other arrangements are made with our editors.

Submissions are not guaranteed approval. *BIG_Review* reserves the right to reject submissions on any ground.

To submit artistic work, contact our [Chief Editor](#).

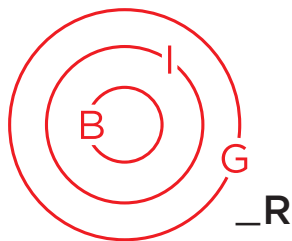
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identities. Research questions might include: What are contemporary challenges to borders, internally and externally? How are borders adapting? What challenges do borders pose for communities and for people in transit or seeking asylum? How are cultures shaped by borders, and vice-versa? How are technologies shaping borders? We encourage innovative theoretical work and explorations of borders widely construed, as well as empirical and quantitative research.

Peer Review Process

Approved submissions are submitted to an intensive, double-blind peer-review process, comprising a review board of specialists in the field. Once revisions have been completed and a final decision has been made by the Editor-in-Chief, final copyediting and formatting will be provided by the BIG editorial team.

The Editor-in-Chief will notify authors as early as possible as to whether their submission has been accepted for publication. Selected manuscripts are assigned a member of the Editorial Board, who will work with the author to address any outstanding issues concerning style or substantive content prior to publication. Submissions that do not abide by the publication's style guide may not be accepted.

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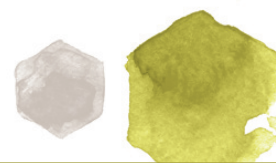
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Canada's Fluid Borders

Trade, Investment, Travel, Migration

Edited by Geoffrey Hale and Greg Anderson



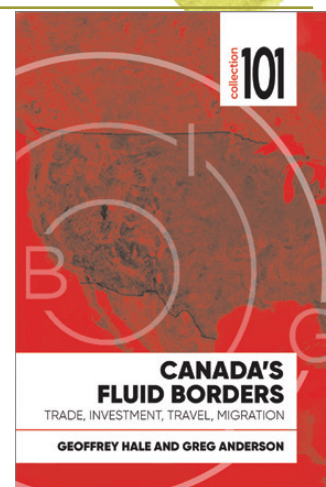
Crossing borders involves much more than going through checkpoints. By drawing on an innovative transdisciplinary reconceptualization of the border as elastic or "fluid," Canada's Fluid Borders offers fresh interpretations of the major geopolitical and socioeconomic issues that require the immediate attention of Canadian policymakers.

Popular understanding may conceive of borders as formal boundaries separating the territories of different countries—or perhaps the administrative locations ("ports of entry") at which individuals or goods pass from one country to another. However, the continuing growth and diversification of trade, investment, travel, and various forms of migration increase the importance and interaction of bordering processes.

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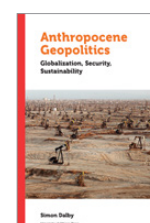


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Geoffrey Hale is professor of Political Science at the University of Lethbridge. Following his undergraduate studies at Princeton University, he completed his master's and PhD studies at the University of Western Ontario.

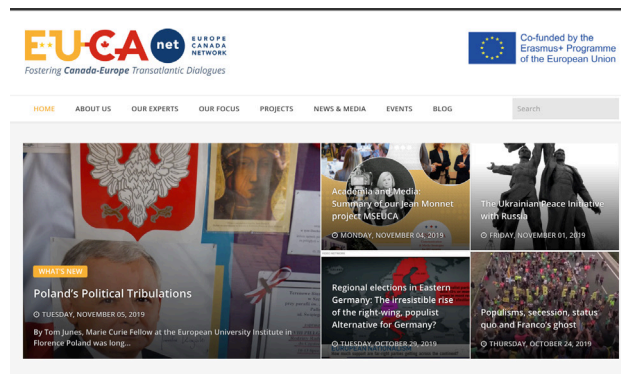
Greg Anderson is professor of Political Science at the University of Alberta. He earned a master's degree in American history from the University of Alberta and completed his PhD at Johns Hopkins University.

Both are widely published in the fields of political economy, international trade and investment policies, Canada-US relations, North American integration, and border-related issues.

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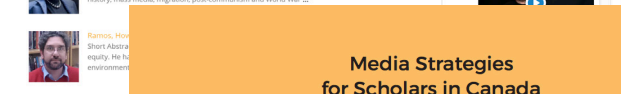
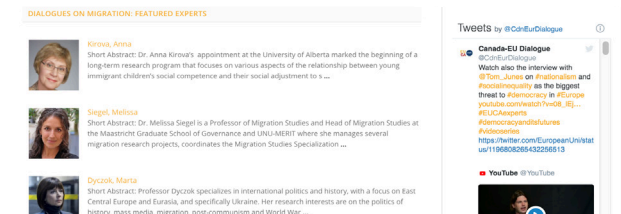
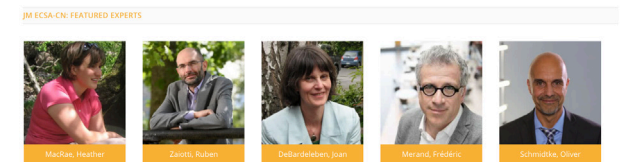


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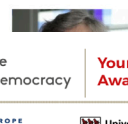
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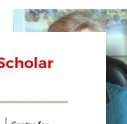
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**Populism:
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Adjudicators

At the University of Victoria:

Oliver Schmidtke, Department of Political Science and History, director of the Centre for Global Studies

James Tully, Distinguished Professor of Political Science, Law, Indigenous Governance and Philosophy

Jeremy Webber, Faculty of Law, scholar in the areas of cultural diversity, constitutional theory and indigenous rights.

Adjudicators

At European Universities:

Robin Celicetas, Social Philosophy
(Free University Berlin, Germany)

Peter A. Kraus (tbc), Political Science
director of the Institute for Canadian Studies
(University of Augsburg, Germany)

David Owen, Social and Political Philosophy
(University of Southampton, UK)



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BORDERS IN GLOBALIZATION REVIEW

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