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Real realism about migration

1. Introduction

“It’s all about immigration. It’s not about trade or Europe or anything like that ... The movement of people in Europe – fair enough. But not from Africa, Syria, Iraq, everywhere else, it’s all wrong”.¹ This is how one voter explained, on Channel Four news, why he voted for Britain to leave the European Union. He, like many of his fellow nationals, believed that immigration pressure had brought the country to reach a breaking point. “Breaking point” was also the slogan in one of the most controversial posters of the referendum campaign that Nigel Farage led on behalf of the UK Independence Party. The pictured showed Farage pointing the finger at a queue of refugees crossing the Slovenia-Croatia border in 2015 and read: “the EU has failed us all. Let’s break free of the EU and take our country back”.²

While much more critical of the exaggerations and simplifications voiced by such anti-immigration sentiment on mainstream media, the issue of how to come to a fair settlement of the claims of immigrants, those of citizens in sending societies and those of citizens in receiving societies has been at the centre of many recent debates on justice in migration. “The immigration regimes of most contemporary liberal democracies”, argues a prominent recent book, are under ‘extreme stress’.³ Such stress, so the argument goes, is driven by a number of factors: firstly, the sheer number of migrants struggling to be admitted, secondly the premium that (because of a range of liberal democratic commitments to equality for all) is placed on “getting one

¹ <https://www.theguardian.com/commentisfree/2016/jun/30/voted-leave-eu-racist-idiot-intolerance-brexiteers>

² <http://www.theguardian.com/politics/2016/jun/16/nigel-farage-defends-ukip-breaking-point-poster-queue-of-migrants>

³ David Miller, *Strangers in Our Midst* (Cambridge MA: Harvard University Press, 2016), p. 159.

foot inside a territory”, and thirdly by “the anxieties, resentments and prejudices of many native citizens toward many immigrants”.⁴ Such difficulties, it is also argued, lead to social injustices suffered by the immigrants, and to resentment, mistrust and hostility experienced by the natives. They cry for principled responses that are grounded in existing political realities and sensitive to the real-world constraints put by immigration pressure on relatively affluent states.⁵

Advocates of freedom of movement tend to respond to these arguments by questioning the very normative premises on which they are grounded. But they do so from a very different methodological perspective. They suggest that, whatever we think about political reality, freedom of movement is a human right, border controls are arbitrary and coercive, and the distribution of privileges between rich and poor areas of the world is unfair given the basic moral equality between human beings.⁶ Yet such responses are unlikely to move their realist critics. They might be philosophically effective but they are perceived as idle and unproductive when it comes to providing orientation for the real world. Or so the realists’ argument goes.

Rather than side with the advocates of freedom of movement, in this paper I want to listen to the concerns of those who take seriously realism about migration, and suggest some internal criticisms of the positions advanced. We might want to be realistic about migration, but we need to interpret reality in the right way. We might want to grant that migration is a real concern for citizens of liberal states but we need to know which citizens are being affected, by what measures, and how they can be empowered again. We might agree that open borders are questionable but we need to see whether decisions on who to admit and who to exclude affect all migrants in the same way. My argument, in what follows, is that both defenders and critics of freedom of movement

⁴ Ibid.

⁵ Ibid. For a methodological discussion of realistic vs. idealistic responses to migration see Joseph Carens, “Realistic and idealistic approaches to the ethics of migration”, *International Migration Review*, vol. 30 (1996), pp. 156–70. Sensitivity to political realism is also the reason for which Carens, usually a sharp critic of immigration restrictions, proceeds for most of his latest book following the “conventional” view that states are entitled to control their borders, see Joseph Carens, *The Ethics of Immigration* (Oxford: Oxford University Press 2015), pp. 9-13.

⁶ See, for example, Arash Abizadeh, “Democratic Theory and Border Coercion: No Right to Unilaterally Control your Own Borders”, *Political Theory*, vol. 36, issue 1 (2008), pp. 37-65. Joseph Carens, *The Ethics of Immigration*, esp. ch. 11; Chandran Kukathas, “The Case for Open Immigration,” in Andrew Cohen and Christopher Heath Wellman (eds.) *Contemporary Debates in Applied Ethics* (Malden, MA: John Wiley & Sons), pp. 376–388, Kieran Oberman, “Immigration as a Human Right” in Sarah Fine and Lea Ypi, eds. *Migration in Political Theory: The Ethics of Movement and Membership* (Oxford: Oxford University Press 2016), pp. 32-56.

are wrong to assume that migration poses a problem of justice for everyone. My suggestion is that it all depends on who you are. Borders have always been (and will continue to be) open for some and closed for others. If we focus on the abstract moral value of freedom of movement, and its implications for border control, we are focusing on a question that is unlikely to move the realist critics of migration. Although that question is far from uninteresting in itself, I shall bracket it here for the sake of exploring a different debate.

Before proceeding, a note on the use of the term realism is in order. Despite the growing literature on realism in political theory, a uniform definition seems missing in the context of the analysis of migration. Roughly speaking, one common feature on which most versions of realism in political theory seem to overlap consists in its commitment to take seriously the circumstances of politics, and the interpretive constraints that follow from this.⁷ Thus realism is often contrasted with a moralist position which takes political philosophy to be a kind of applied ethics, prioritizing the commitment to abstract moral values and resulting in prescriptions formulated in isolation from relevant political facts.⁸ In what follows, I shall apply these constraints to the migration debate with particular attention to two dimensions: institutional and motivational.⁹ As far as the first is concerned, we might say that to take seriously institutional constraints, a realist approach to migration must take for granted the reality of states. This includes not only apparently unchangeable facts like the recognition of state sovereignty in the international system and the right to exclude that is coupled with that recognition, but also more dynamic political facts such as the empirical impact of migration, including the burdens of admission and integration on both immigrants and natives.¹⁰ Secondly, from a motivational perspective, a realist must take seriously any evidence on psychological dispositions, expectations and attitudes of native citizens towards migrants, as well as viceversa. It must also pay

⁷ For an excellent review of the literature see Enzo Rossi and Matt Sleat, "Realism in Normative Political Theory," *Philosophy Compass* 9, no. 10 (2014)..

⁸ See the discussion of the contrast between realism and moralism in Lea Ypi, "From realism to activism: a critique of resignation in political theory, in *The Trouble with Democracy: Political Modernity in the 21st Century*", Edinburgh: Edinburgh University Press, pp. 233-248.

⁹ I borrow (and slightly amend) these criteria from Joseph H. Carens, "Realistic and Idealistic Approaches to the Ethics of Migration," *International Migration Review* 30, no. 1 (1996).., pp. 158-9.

¹⁰ See on the need to accept this point from a realistic perspective *ibid.*, p. 158, David Miller, *Strangers in Our Midst*, Harvard: Harvard University Press, p. 17, and, in dialogue with Miller, Kieran Oberman, "Refugees, Racism and Restrictions: Why Migration Realistst must be Migration Radicals", *European Political Science*, forthcoming.

attention to the particular sources of grievance that people reveal when discussing the impact of migration in particular societies, and to formulating policies that reflect these grievances and seek a remedy for them.¹¹ Combined, these constraints imply that a migration realist will need to be sensitive both to the existence of political facts (of an institutional and of a psychological kind) and to the implications of those facts for the interpretation of normative principles able to orient sound migration policies.

2. Realism about migration: distributive conflicts

Migration, realists argue, brings with it a range of conflicts that require hard thinking beyond the optimism and wishful thinking of those cosmopolitan friends of humanity whose stance on open borders or civic integration ends up condoning lazy reasoning when it comes to solving the very real immigration-related problems that current liberal societies face. Such conflicts are often interpreted along two different lines: one that I will call distributive, and another of a cultural kind. As far as the distributive worry is concerned, immigrants, it is often argued, compete with natives for jobs, housing, access to healthcare, schooling etc. Given the commitment of liberal states to guaranteeing access to a certain level of welfare to whoever resides in their territory, it is natural that the latter should exercise discretion on who they admit and who they exclude if they are to maintain those welfare standards.¹² As far as the cultural worry is concerned, it is argued, we should be mindful of the fact that immigrants will make a significant impact on their hosts' national culture by bringing new social conventions, new languages, new religions, and new ways of using public spaces and which will often present a conflict with existing ways of life and pose challenges that require to be addressed.¹³

¹¹ Carens discusses this constraint under the label of "behavioural" realism, see *ibid.*, p. 159.

¹² The idea that immigration creates new obligations for citizens of host societies is central to a number of arguments defending the right to exclude, see for example Michael Blake, "Immigration, Jurisdiction and Exclusion", *Philosophy and Public Affairs*, vol. 41, issue 2 (2013), pp. 103-130; Miller, *Strangers in our Midst*, esp. chs. 6 and 7.

¹³ There is a large literature on both these aspects of the discussion, for good summaries and analysis of the standard critiques, see David Miller, "Immigrants, Nations, and Citizenship," *The Journal of Political Philosophy*, vol. 16, pp. 371–390 (2008), Will Kymlicka and Keith Banting, "Immigration, Multiculturalism, and the Welfare State", *Ethics & International Affairs*, vol. 20, pp. 281–304 (2006), Ryan Pevnick, "Social Trust and the Ethics of Immigration Policy," *The Journal of Political Philosophy*, vol. 17, pp. 146–167 (2009).

Let us start with the first question: the distributive worry. The concern seems to be particularly pressing when we turn to what average people think when assessing the impact on migration on host societies. David Miller begins his most recent book by citing British opinion polls that show how 85% of the British public believes that immigration is putting pressure on public services such as schools, hospitals and housing and 65% believes that immigration has been bad for British society as a whole.¹⁴ He does not endorse these data himself, at least not as this point, he uses them as a platform to launch what he thinks is a realistic enquiry on the appropriate moral terms of interaction between immigrants and natives given a range of plausible commitments of the liberal national state (including a commitment to self-determination and to guaranteeing human rights and a decent standard of living to whoever resides in its territory). More cautiously, Joseph Carens also endorses the premise that “in our highly inegalitarian world there is some evidence that welfare state differences play some role in motivating patterns of immigration” but concludes that the choice between the welfare state and open borders is in itself a morally objectionable one, similar to the perverse offer of “your money or your life”.¹⁵

Yet what both the realist diagnosis and the open borders response miss in reaching their conclusions is the class-specific dimension of these concerns. The burdens of admission and integration are not shouldered equally by all immigrants and by all natives. As far as immigrants are concerned, and to take just one example, under the Tier 1 (Investor’s Visa Programme), those with the ability to invest 1 million GBP in the United Kingdom can apply for permanent leave to remain after only two years living in the country and for permanent citizenship after only 3 years¹⁶ (significantly less than those who have reason to naturalise because of their family ties). Likewise, the inconveniences of assembling paperwork, waiting times, uncertainty of decision

¹⁴ See Miller, *Strangers in our Midst*, pp. 1-2. Another recent book argues that 59 percent of the British population thinks that there are ‘too many’ immigrants, see Paul Collier, *Exodus: How Migration is Changing Our World*, Oxford: Oxford University Press (2013), p. 60. Focusing on the United States, Stephen Macedo has also argued that “there are reasons to believe that recent American immigration policy has had a deleterious impact on the distribution of income amongst American citizens”, see Stephen Macedo, “The Moral Dilemma of US Immigration Policy: Open Borders versus Social Justice” in *Debating Immigration*, ed. Carol M. Swain (New York: Cambridge University Press, 2007), p. 63-81 at p. 63.

¹⁵ Carens, *The Ethics of Immigration*, p. 283.

¹⁶ <https://www.theguardian.com/uk-news/shortcuts/2013/dec/10/want-to-buy-citizenship-super-rich-malta-passports>

making and all the familiar troubles associated to immigration bureaucracy are unevenly spread among the immigrant population. Again here, to limit to just one example, if you are super-rich, under the super premium service for processing leaves to remain, for a 'modest' fee of around 9000 GBP (as opposed to the just over 800 GBP for the normal fee) application forms and biometric information are collected by a courier and visa officials to your home. There is no need to book an appointment and queue and the whole file is processed within 24 hours, as opposed to the over 6 months required for the normal service.

These practices are generalizable across the European Union and beyond. In the aftermath of the Eurocrisis, Cyprus offered citizenship to foreign investors as compensation for the loss of their savings deposited in Cypriot banks. In 2012 Portugal offered a "golden residence permit" with fast-tracked access to citizenship and accelerated family reunification procedures to real estate and financial investors promising to create jobs in the country. In 2013, Malta approved a law that allowed wealthy applicants to obtain a European Union passport in return for €650,000.¹⁷ Even on issues of admission, immigrants are unequally burdened. Under the point-based admission policy pioneered in Canada and successfully spread around the world, including in Australia, Denmark, Singapore and the United Kingdom, prospective immigrants with higher skills, more money, a higher capacity to adapt in the host environment face significantly lower obstacles to admission and integration compared to their less wealthy, talented or well-trained counterparts. Indeed, in the case of highly skilled immigrants, states find themselves competing for talent in a global race characterised by its own distinctive hierarchies whereby "the more desired the immigrant is, the faster she will be given an opportunity to lawfully enter the country and embark on a fast-tracked path to its membership rewards".¹⁸

The liberal promise to distribute equally the benefits and burdens of social cooperation is therefore not delivered equally to migrants belonging to different social classes. The same considerations on the neglect of social class apply also when we assess the issue from the point of natives and examine their grievances about immigrant

¹⁷ See Ayelet Shachar, "Dangerous Liasons: Money and Citizenship" in Ayelet Shachar and Rainer Baubock (eds.) *Should Citizenship be for Sale*, Robert Schuman Centre for Advanced Studies Research Paper No. 2014/01, p. 3.

¹⁸ See on this issue Ayelet Shachar, "Selecting by Merit: The Brave New World of Stratified Mobility" in *Migration in Political Theory*, cit. p. 183.

competition with regard to public healthcare, housing or schools. Again here, not all immigrants will attract mistrust and resentment in equal measure - only those with lower skills and on middle to lower incomes who are likely to make use of these services (Arab or Russian billionaires in London typically have their health checks in private clinics, send their children to expensive private schools and make no claims to, say, council housing).¹⁹ The kind of competition that leads to resentment is typically between poor working class natives and poor immigrants because these are the subjects more likely to need state-subsidized assistance and access to a range of welfare services. This is where both the realists' diagnosis of why immigration is perceived to be a threat and the variety of suggested remedies go astray. Reducing the conflict between immigrants and natives to an identity conflict between all migrants and all natives obscures the class-related dimension of such conflicts and the fact that those who are responsible for the emergence of such conflicts are as much part of an existing political community as coming from the outside. But the problem with the realist interpretation of political reality is that the focus on distributive conflicts between migrants and natives obfuscates political disagreement between native citizens over such issues. It also runs the risk of condoning the dominant narrative fuelled by populist media and xenophobic political forces, at the expense of a more progressive interpretation of what is going on in contemporary liberal societies.

A rival realist interpretation of the empirical circumstances in which immigration related injustices arise would not begin with what the status quo realists begins: an isolated analysis of the problem of justice in migration understood primarily as a conflict between agents who have different identities. It would rather examine the issue of migration in the context of wider social injustices appearing as a result of financial constraints on the funding of welfare states, the increase of sovereign debt, the impunity of domestic employers or property-owners who take advantage of the vulnerability of poor people (whether native or immigrants) and the fact that working class immigrants become scapegoats for the inability of liberal states to deliver the promise of equality in the distribution of social goods to all its members, in particular

¹⁹ For empirical evidence that anti-immigrant hostility is much more pronounced when low-skilled immigrants are concerned, and that anti-immigrant sentiment declines when high-skilled migration is at stake, see Jens Hainmueller and Michael J. Hiscox, "Attitudes toward Highly Skilled and Low-Skilled Immigration: Evidence from a Survey Experiment," *American Political Science Review* 104, no. 1 (2010).

the most vulnerable ones. In short, it would be a discussion of how the crisis of the ideal of social democracy (an ideal with which many realists often profess sympathy) is linked not to the consolidation of identity conflicts but to the pursuit of social and economic policies that leave poor working people with inadequate access to housing, healthcare, and a decent education for their children. Therefore, the real problem is not the perceived threats to jobs, schooling or access to health that migrants present for natives. And the most appropriate way forward is not to come up with admission and integration policies that will contain these effects by selecting migrants on the basis of particular, highly desirable, skill sets or potential for economic contribution and toughening up criteria for admission of all others.²⁰ We ought to begin with a different, though equally realistic, diagnosis focusing on the shared obstacles that both poor migrants and poor white lower and middle-class natives encounter. Such threats are particularly pressing on the face of declining unions, the rise of populist political parties fuelling anti-immigration narratives, and in the absence of appropriate vehicles of political representation for immigrants and natives alike. On this rival realist analysis then, migration related conflicts should be analysed as presenting not an injustice in their own right but as part of a larger account of social injustice, which focuses on a common source of oppression for both domestic and immigrant workers.²¹ And the solution will not come from responses that consolidate the divide between natives and migrants. It is more likely to emerge from efforts to build political alliances across these two constituencies and from a firm commitment to strengthening networks of solidarity and institutions fostering joint bargaining.²² Taking up these challenges is the task of progressive political agents (movements, unions and parties) whose commitment to democratic representation and electoral success should not sacrifice an appropriate

²⁰ Migration scholars often overlook the fact that the selection of skills might be an inappropriate way to respond to the perceived conflicts that arise out of migration pressures. While discussing the focus on immigrants' potential economic contribution in setting up criteria of admission, Joseph Carens for example, stresses that within conventional assumptions about the right of states to control their borders, such criteria "may be ungenerous but are not unjust" (Carens, *The Ethics of Immigration*, p. 185). David Miller also notes that "so long as the policy is introduced and applied in good faith" it can be "legitimately" used. David Miller, *Strangers in Our Midst*.

²¹ For a discussion of this problem with regard to temporary worker programmes, see Lea Ypi, "Taking workers as a class: the moral dilemmas of guestworker programmes" in Fine and Ypi (eds.) *Migration in Political Theory*, pp. 151-174.

²² For a discussion of some of the challenges this poses, see Nathan Lillie and Ian Greer, "Industrial Relations, Migration, and Neoliberal Politics: The Case of the European Construction Sector", *Politics & Society*, December 2007, vol. 35, pp. 551-581, Ian Greer, Zinovijus Ciupijus, and Nathan Lillie, "The European Migrant Workers Union and the barriers to transnational industrial citizenship", *European Journal of Industrial Relations*, March 2013, vol. 19, pp. 5-20.

interpretation of political reality.

Before closing this section, it is important to note that I have discussed the issue of distributive problems by taking for granted two factual claims that realists typically make in analysing the conflict between migrants and native citizens. The first is that there is a genuine trade-off between immigration and the preservation of the welfare state. This premise can be, and has often been, contested. Immigrants, it is often said, are more a resource than a burden for liberal democracies: they make a positive fiscal contribution even in periods of budget deficit, they fill shortages in labour supply, they compensate for a decline in fertility rates, and they contribute to the development of human capital in host societies.²³ The second factual assumption is that the unit of analysis for the distribution of shared benefits and burdens is the state. It might be objected that the discussion on shared burdens would be different if we were to take as the relevant unit of analysis not the state but a more expanding community of transnational interest or even a cosmopolitan society. I agree with both these objections. But I did not mention them in my account because I am more interested in asserting that even if we accept a more conservative, realist, description of events, it is possible to come up with an alternative framing of the problems identified. This alternative framing might in turn help change the political terms under which migration related conflicts are explored in liberal democracies, therefore progressively reshaping citizens' ascriptions of responsibility and political expectations.

3. Cultural concerns

The second issue on which realists typically focus in emphasising the impact of migration on host societies has to do with tensions of a cultural nature. One scholar offers a caricature of the objection when reflecting on the United Kingdom's experience with the first wave of migration from the Commonwealth. The cultural objection, John Plamenatz argues in an article whose title inspired a recent influential book on the topic, seems to take issue merely with the 'foreignness' of immigrants, with the fact that strangers are merely different from us, without necessarily reflecting on whether

²³ See for a discussion of many of these points <https://www.oecd.org/migration/OECD%20Migration%20Policy%20Debates%20Numero%202.pdf>

this difference actually has adverse implications. “What are these people doing looking un-English or making un-English sounds in English streets, English parks, and even English pubs? They are obstinately and irremediably different, and the difference is felt to be a provocation. Not being English, ought they not somehow to be quieter and less visible?”²⁴ This is at the heart of the cultural complaint, Plamenatz emphasizes.

But where does the complaint come from? A reality check is called for. The complaint comes from inhabitants of societies whose interference with other cultures, ways of life and religious or ethnic traditions has been much more disruptive than the immigrant disruption that is currently being lamented. As Plamenatz explains, there would be no black people in the US today if Western Europeans had not killed, exploited, coerced and shipped them across the ocean to be sold as slaves. And one of the countries with the most intrusive records has been precisely England. Therefore, if we take realism seriously, there is an open question about what kind of expectations for integration, citizens of developed countries are entitled to have when it comes to how migrants are received in host societies. The point invites a reflection on how the right to exclude, which we acknowledge today as one of the main prerogatives of the modern state has historically been consolidated through projects of domestic repression and international colonization pivotal to the development of both state sovereignty and of an international order in which sovereignty plays a key role.

One could argue here that it is possible to take responsibility for the unjust past whilst defending the legitimacy of the right to exclude, provided alternative ways of making historical amends are identified.²⁵ But my point here, in keeping with realist premises, is not to question the right to exclude as such. It has to do with the implications that historical injustice has for our expectation that migrants ought to integrate in a certain way. This account of the ongoing historical exclusion and repression of the “strangers in our midst” is noticeably absent in the many citizenship tests to which migrants are subjected and that are seldom questioned by realists about migration.²⁶ Indeed, if

²⁴ Plamenatz, *Strangers in our midst*, p. 8.

²⁵ For a discussion of the relation between the right to exclude and taking responsibility for the unjust past see Sara Amighetti and Alasia Nuti, “A nation’s right to exclude and the colonies”, *Political Theory*, vol. 44, issue 4 (2016), pp. 541-566.

²⁶ Reference literature on citizenship tests as ways to consolidate national identity: Callan, Kymlicka, Miller.

such tests were to recognize the tainted roots of the many national identity projects that they often (implicitly or explicitly) celebrate, they would serve a subversive purpose: instead of securing compliance from aspiring citizens and facilitating their integration in a particular political culture, they would show how the price of the construction of that culture has historically been the destruction of those different 'others' who were perceived as a threat to the stability and peace of a dominant institutional order increasing their suspicion towards it.

This raises a wider question about the means of cultural integration and the issue of citizenship tests as an appropriate vehicle to achieve that. David Miller, one of the foremost advocates of realism about migration, thinks they do. Miller believes that 'in order to function as a citizen, a person must also align herself with the political system of which she now forms a part'.²⁷ On this matter his account is quite demanding: not only is a sense of compliance with the basic authority and norms of the host state required, but immigrants ought to familiarize themselves with its cultural landmarks, 'feasts and holidays, artistic and literary icons, places of natural beauty, historical artifacts, sporting achievements, popular entertainers, and so forth'. They ought to do this, he argues, even if their aim is ultimately to change the societal culture or to mix it with elements of their own heritage and background. Thus, as Miller explains, 'a Muslim immigrant to Italy should expect that her female children will be allowed to dress modestly and to wear the headscarf to school but she should not object to the presence of a crucifix as a representation of Italy's Catholic heritage'.²⁸

This argument raises two wider questions. Firstly, such expectations of cultural conformity run the risk of concealing how much the construction of national identity is a matter of ongoing political dispute, if it is to be more than a celebration of past achievements. So, to keep with the crucifix example, the problem with the realists' argument about cultural integration is that the reification and sanitisation of national identity upon which it relies runs the risk of endorsing a conservative outlook which stifles rather than encouraging political activism. The issue of crucifix presences in Italian classrooms has been an object of vivid political contestation, with the main criticisms coming not from members of other religions who object to it on cultural

²⁷ Miller, *Strangers in Our Midst*, p. 7.

²⁸ *Ibid*, p. 149.

identity grounds but from secular Italian citizens who interpret such a symbol as a gesture of continuity with the country's fascist tradition or as an attempt to undermine the separation of the Catholic church from the Italian state. The construction of common allegiances is often a matter of conflict not just between immigrants and natives but also among natives themselves and to request immigrants to identify with the interpretation of the national culture that is at play in this case reifies consent around the conservative side of the political debate.

Secondly, and even more perniciously, by asking immigrants to refrain from questioning national culture in this way but recognising their demands to expect certain cultural concessions on 'their' way of life, what we effectively end up doing is to reduce the potential objections of the immigrant to cultural objections. This in turn both weakens the interpretation of her criticism as political in character and reduces the effectiveness of her civic participation in the debate. The result is that an intervention designed to facilitate cultural integration and encourage political activism achieves precisely the opposite effect, it entrenches cultural identification and removes major issues of political contestation from the spectre of political disagreement. Realism of this stripe stifles the political activism it is supposed to encourage. When political conflict is reduced to identity conflict, other major sources of political disagreement are either silenced or go unnoticed. This has pernicious effects for both the appropriate diagnosis of such conflicts and the identification of remedies required to respond to them.

One might argue here that the crucifix example is ill-chosen but that the general point would be valid if it were more charitably formulated. One could argue that even if we agree that the construction of a particular political culture is a matter of ongoing dispute, and that we should not take any particular interpretation of it as the settled one, natives should remain in the control of the process whereby the terms of the debate are set. But if we concede that point, the risk is that the degree of commitment required to participating in such civic debates is so minimal that it is hard to see what exactly the civic integration tests could measure and how they would show that they can measure that. If a benign interpretation of national history runs the risk of silencing dissenting voices, a more critical one runs the risk of shaking the belief that the civic project to which migrants now have to commit is a worthy one. And if we reduce the

demand to one in which what is required is merely the ability to operate in a particular language and to function as a citizen of the host community, it is not clear why we take it as a default position that the kind of knowledge required to exercise political judgment of this kind is one *all* natives have and *all* immigrants lack.²⁹ Surely here too, the problem is that in the preparation for competent exercise of political judgment levels of education, degrees of culture, and different social skills matter hugely whether one is a native or an immigrant. If that is the case, either we should ensure that all citizens and all natives are tested to guarantee they can be competent participants in public debates, or we should acknowledge, more realistically, that different people will display different levels of interest in these matters regardless of how the relation to a particular political community was established.

Conclusion

This paper has addressed two of the core claims that advocates of realism about migration tend to make when reflecting on the conflicts that the movement of people across borders poses for contemporary liberal democracies. Even if we take seriously their methodological presuppositions, I argued, there is no reason to end up with policies and prescriptions that condone the status quo. Migration poses serious questions of justice but such questions ought to be examined in the context of a larger analysis of social injustice, the historical context of its production and the agents responsible for and affected by it. If we isolate the discussion of migration related problems and ground it on abstract analysis of human rights to freedom of movement, morality of border controls or humanitarian compassion towards vulnerable people, we might end up depriving ourselves of the most effective tools for identifying a remedy to them.

Note for readers. The Appendix (below) used to be part of the paper (section 4) but I have recently been persuaded to drop it because some of the claims I make

²⁹ Joseph Carens objects to citizenship tests on the grounds that the knowledge they require is complex and multifaceted and cannot be captured by them, see Carens, *The Ethics of Immigration*, p. 59. This is of course plausible but a different argument from the one I make in what follows.

here do not seem to fit with the realist methodological commitment of the paper. I would be very grateful for thoughts on that and some feedback on the session.

APPENDIX: Illegal immigrants

So far I have suggested that the topic of justice in migration should be considered part of a larger discussion about the rise of social inequalities in liberal democracies and that migration-related conflicts do not affect all citizens or all migrants in the same ways. But there is a second realist interpretation of how the problem of justice in migration fits with larger patterns of injustice and it has to do with the effects of historical injustice in the present. Again, here we can stay within the methodological boundaries set out by realists: presupposing no more than a general commitment to equality among human beings, avoiding counter-factual idealizations on open borders and sharing a grounded outlook on the adverse political circumstances in which contemporary liberal democracies set their migration policies. Notice that even if we commit to all that, an alternative realist interpretation of the justification of states' right to exclude, one that places the claim in historical context leaves us with a very different account of its implications. As already pointed out, the sovereignty of states who now practice immigration restrictions has been historically established against the background of thoroughly immoral and illegitimate practices involving the colonization of distant others and the exploitation and displacement of dissident minorities for purposes of self-enrichment. It is as if a gang of Mafiosi managed to fence off a part of common land and by sheer recourse to violence and oppression convinced everyone around them (or the other Mafiosi around them) that they had acquired legitimate property, which once recognized by their neighbours could not be trespassed or used without their consent.

We might ask here, as many in the literature on territorial rights do: what could justify their descendants appealing to their right to exclude? ³⁰ But that question would need to be further qualified in light of our argument about the tainted origins of first

³⁰ For discussions of territorial rights in relation to migration based on arguments about occupancy or ownership of the land see Ryan Pevnick, *Immigration and the Constraints of Justice: Between Open Borders and Absolute Sovereignty* (Cambridge: Cambridge University Press, 2011), esp. chs. 2 and 3, see also Margaret Moore, *A Political Theory of Territory* (Oxford: oxford University Press), esp. ch. 9.

acquisition.³¹ To justify the claim of descendants of initial wrongful occupants, we could appeal to the doctrine of ‘adverse possession’ in law. The doctrine is often invoked to claim de facto title on holdings arguing that wrongful occupants of land (or territory in this case) might nevertheless establish a right to it after a sufficient period of time has elapsed, provided that the property has not been contested.³² Notice how this argument is often invoked to discuss the rights of irregular migrants to naturalise in their host societies in which they have entered via illegal channels (thus committing an original wrong). But when invoked in that context, realist critics of migration tend to dismiss it. David Miller, for example, argues that the doctrine of adverse possession only works if it combines a claim to continuous enjoyment of access to land by the current illegitimate occupier with indifference from others whose rights are violated by such wrongful and unilateral taking of property. The latter, he claims, is however clearly not the case in contemporary cases of conflicts over irregular migration therefore the doctrine of adverse possession is insufficient to provide irregular migrants with a justification of the right to stay.³³ My claim is that if (by the realists’ own argument) the doctrine of adverse possession does not give illegal immigrants a right to settle in the territory they occupy even after some lapse of time, it also does not justify the territorial rights of states whose claims to jurisdiction and the related right to exclude is built on an analogous (and in fact much worse) form of unilateral occupation of territory. The only promising argument here, in the realist’s own words, is one that invokes the temporal significance of social membership ties. But that argument, as David Miller puts it with regard to irregular migrants, “creates a strong presumption in favour of allowing them to stay but not one that can be legitimately set against the other goals that immigration policy is intended to achieve”.³⁴ Now, if we apply Miller’s same argument to the descendants of the Mafiosi and their alleged right to exclude, we would say that although with the passing of time they have acquired a presumption to stay where they are, a presumption that is, against deportation, such presumption would also have to be set against “the other goals that immigration policy is intended to achieve”. Therefore, if we adopt the tools of methodological realism applied to an

³¹ For a more extensive review of the literature and critique on this point see Lea Ypi, “Territorial rights and Exclusion”, vol. 8, issue 3 (2013), pp. 241-253.

³² See on this issue Ayelet Schachar, *The Birthright Lottery: Citizenship and Global Inequality* (Cambridge MA: Harvard University Press, 2009), pp. 185-187.

³³ See the argument in Miller, *Strangers in Our Midst*, pp. 122-3.

³⁴ *Ibid*, p. 124.

issue like that of the admission of irregular migrants, we are likely to discover that the real irregular immigrants are in fact citizens of liberal democracies whose right to exclude is established in an idealised framework about the conditions under which that claim was earned.