

Cosmopolitanism and The Right to be Legal: The Practical Poverty of Concepts

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Travelling for profit is encouraged. Travelling for survival is condemned...The globalized world is a hospitable and friendly place for tourists, but inhospitable and hostile to vagabonds. The latter are barred from following the pattern that the first have set. But that pattern was not meant for them in the first place. (Bauman 2002:84)

A cosmopolitan is a person who is highly mobile, moving largely within elite circles and participating in the consumption of high culture. (Delanty 2000:54)

There has been an appalling increase in the number of victims of irregular immigration coming from North African countries, who lose their lives attempting to illegally cross the Mediterranean in search for more promising lives on the other side of the sea. One Egyptian Newspaper reported this increase to be three hundred percent in the last ten years (Al-Ahram 2008). Nevertheless, while we hear about these deaths, we also hear about rising international tourism, investment, global cities, and what is now commonly termed cosmopolitanism. In this article, I attempt to contextualize the debate on cosmopolitanism through critiquing and linking it to Eurocentrism. Through this, the lived reality of being 'cosmopolitan' will be juxtaposed to the experience of "irregular immigrants". By examining Arendt's and Benhabib's ideas and how the moral parochialism of sovereign nation-states renders the debate on certain human rights meaningless, the debate on cosmopolitanism could be enriched when confronted with its practical limitations.

Cosmopolitanism: A Contextual Analysis of its History, Definitions, and Critique

The idea of cosmopolitanism has been recently gaining solid theoretical ground in intellectual circles as an anti-thesis that always emerges opposing nationalism and traditional definitions of national identities and loyalties. Benedict Anderson in his widely acclaimed work on nationalism; *Imagined Communities* (1983) has directed our attention to a major fact; namely the philosophical poverty of nationalism vis-à-vis its political power (p.5). Interestingly enough, if we follow a circular

logic, we would find that the opposite facets characterize cosmopolitanism; a concept that has been widely discussed theoretically despite lacking applicable and political power.

It would be misleading to argue that cosmopolitanism is a Western notion. Several interpretations of what constitutes a cosmopolitan ethic would lead us to find converging ideas with non-Western thought, most prominently with the Indian poet Tagore, Confucianism as well as the Islamic concept of the "*umma*". However, this article deals with the elucidation of the western notion of cosmopolitanism that was firstly articulated by Erasmus and then later most significantly by Kant. This idea is encapsulated in the concept of world citizenship as the "identification with all other human beings as equals; belief that we share the earth in common; and commitment to peace and to tolerance of other religions and cultures" (Carter 2001:11).

It should be noted that cosmopolitan ideas have developed in response to essentials of a divided world. Therefore, their salience may be measured more by the level of contestation than of acceptance (Lu 2000:244). This is precisely the reason why cosmopolitan ethics arise in a self-defending manner. This is also shown in the definition presented by the Oxford dictionary, which refers to a universalistic morality that eschews parochial, especially national limitations or prejudices (ibid: 245).

Since cosmopolitanism emerges from the womb of its anti-thesis, or at least emerges simultaneously with its contrast, this entails that, in its essence, it might contain dualities. Lu (2000) presents a theoretical analysis of cosmopolitanism contending that the cosmopolitan image of humanity involves an irreducible duality. On the one hand, it is founded on the recognition of a common human condition marked by vulnerability to suffering, and in this sense, humanity is one. On the other hand, the unity implied by this common condition does not entail homogeneity or sameness, for to be human is also to be distinctively individual or particular, and in this sense, humanity is many. From a cosmopolitan perspective, human beings are one and many things (p. 257). Thus, a cosmopolitan ethical perspective provides us with a morally compelling view of how our many worlds may meet, as they inevitably will, on terms of humanity, justice and tolerance (ibid:265).

The Historical Context: Conquest and A Universal Morality

Modern cosmopolitanism is characterized by the globally-held moral tenet that human beings- and not ethnic communities, nations or states- are the ultimate units of concern (Tinnevelt and Verschraegen 2006; Pogge 2002). However, the history of the concept of cosmopolitanism reflects a paradoxical image. Despite its all-encompassing call for the recognition of a common human condition and universalistic morality, cosmopolitanism, in its origination and sustainability, has retained a direct link with the idea of "nation-states" and conquest.

Three historical incidents reflect this idea. The first historical event was the military conquests of Alexander the Great that opened up the conditions for the existence of a "world empire". His aim was allegedly directed towards uniting East and West. The idea of broadening the Empire beyond single cities paved the way to the emergence of Stoic philosophy (300 B.C.-200 A.D.). Stoicism focused on fusing the natural and social order into a single unit. The complex relationship between an order of nature (cosmos) and an order of society where everything is under human control in the sphere of the polis led to the coining of the idea of cosmopolis (Toulmin 1990:67). Human nature, consequently, in the Stoic conception became conceived of as a part of cosmic nature and was governed by the divine law of nature; leading to the idea of one divine universe, one rational human nature, one appropriate attitude to all men, and therefore, citizenship of the cosmopolis and not the polis (Brown 1992:23-51). The second historical point was the religious wars that concluded with the peace of Westphalia of 1648, and hence, the creation of conditions and a need to look for a rational society that would transcend and avoid the horrors of war. Post 1648 peace led to the consolidation of European pride and a self-image of a universal creed. The law of nature, then, provided an attractive alternative to the design of God. Since this law of nature applied to the universe, the regulation of the society by its principles was conceived as universal (Hutchings 1999; Ribeiro 2001; Mignolo 2002). Once God became questionable, the Pope and the emperor became questionable and *orbis christianus* lost its power to unify communities. Therefore, the church and the state emerged as institutional replacements, with secularism questioning the power of the former, and sovereignty affirmatively characterizing the latter (Mignolo 2002: 163-4).

What I want to assert here is Mignolo's (2002) argument that the category of exclusion has shifted from the "infidels" (gentiles, Jews, pagans) that comprised the population exterior to the *orbis christianus*, to that of the "foreigner" to the nation-state (p.163). Thus, eighteenth-century Enlightenment obscured the religious cosmopolitanism based on rights of people and supplanted it with a national cosmopolitanism based on rights of man and citizen. This cosmopolitanism, however, was not reflected in politics among states, and contradictory developments emerged in the next century; namely, an expansion of popular nationalism, and technological and social trends promoting closer links between governments and peoples (Carter 2001; Dharwadker 2001; Mignolo 2002). Finally, the third historical point was the Holocaust and the consequent historical usage of anti-cosmopolitanism as a euphemism for anti-Semitism (Appiah 2006) on the one hand, and on the other, linking the debate on moral obligations with cosmopolitanism and humanity (Nussbaum 2002).

Definitions and Context

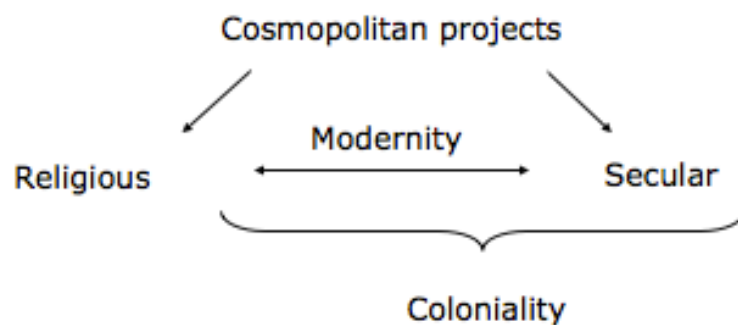
Coming to definitions of cosmopolitanism, there are multiple ways of looking at this concept. Philosophical Enlightenment cosmopolitanism is,

however, the most elaborated and discussed. As a concept, it functions without envisioned feasible political structures for the institutionalization of mass-based cosmopolitan feeling. Kant is considered the inaugurator of modern cosmopolitanism. He argued for four different modalities of cosmopolitanism: the first being a world federation as legal-political institutional basis for cosmopolitanism as a form of right. The second modality is a historical basis of cosmopolitanism in world trade. The third is the idea of a global public sphere; and finally, the importance of cosmopolitan culture in instilling a sense of belonging to humanity (Hutchings 1999; Cheah 2006).

If we turn to examine the present usage of the term, we find three major developments lying at the heart of contextualizing cosmopolitanism: nationalism, immigration, and processes of globalization (Dharwadker 2001). First, the consolidation of new types of nationalism based on programs of racial, religious, and cultural participation led to the reexamination of the idea of nation and nation-state. Second, the influx of immigrants in democratic polities of Europe and North America led to their empowerment in the national public sphere, and thus stirred debates on human rights. Third, the accelerated globalization of capital, material production and consumption after the fall of the Berlin Wall ignited discussions on labor rights, exploitation of resources, markets and environments, and intellectual debates on post and neocolonialism. Within these contexts, propositions of new theories of cosmopolitanism that differ from the Kantian Enlightenment version emerged. Within the context of nationalism, we find post-nationalist conceptions of cosmopolitanism. These derive from various sources. Marxist ideas are one source. In this conception, cosmopolitanism is seen as an existing and necessary condition resulting from the development of forces of production on a global scale. The presupposition becomes a historical scenario in which the masses are able to recognize the nation as a tool of oppression; based on the idea of the proletariat as a universal class and the notion inherent in the communist manifesto of "workers of all countries unite!" (Brown 1992; Cheah 2006). Other trends of thought focus on the notion of solidarity and agency and how they should not be restricted to the sovereign nation-state as a "unified spatiotemporal container" since the legitimacy of the nation-state has been undermined (Cheah 2006:19). Concerning the context of immigration, the idea of boundaries and belonging is crucial in this regards, where cosmopolitanism is linked to the contemporary interconnected world of political institutions and social movements that have a global reach and mass-based political consciousness of belonging to a shared world (Appadurai 2000). Urban cosmopolitanism is an important idea where the city becomes an empirical realization of both cosmopolitanism and parochialism of reinforced hyper-individualist ideas of neoliberal society (Popke 2007:509-18). Finally, the discussions on neo/and post-colonialism are too multifarious to be introduced here. However, it is necessary to point out to the significance of the need for cosmopolitan

ethics of acknowledging the other. In addition to this, a critical position should be asserted while being cautious of the usage of ideas of cosmopolitanism so as not to be reinforcing the Kantian intentions of mercantile imaginings of capitalist cosmopolitanism (Fanon 1966; Popke 2007).

This leads us to linking Enlightenment cosmopolitanism- as the most noted form of cosmopolitanism- with its critique, highlighting the Eurocentric and postcolonial dimensions. It was mainly with twentieth century anti-colonial movements that a negative view of cosmopolitanism arose, and the term arises now with legacies of decolonization as its target and with a critique of the idea of global culture that is typically linked to US hegemony (Brennan 1997). Walter Mignolo presents a perspective on cosmopolitanism that is different from mainstream studies on this subject. Mignolo (2002) argues that the idea of cosmopolitanism could be regarded as a counter to globalization, but not necessarily in the sense of globalization from below. Globalization from below, in his opinion, "involves reactions to globalization from those populations and geo-historical areas of the planet that suffer the consequences of the global economy". The main assumption he draws is that "globalization is a set of designs to manage the world while cosmopolitanism is a set of projects toward planetary conviviality" (p. 157). Narratives of cosmopolitanism are two-sided; managerial and emancipatory. Managerial narratives centered on global designs of Christianity, 'civilizing' missions, imperialism, and neoliberal globalization, while emancipatory approaches were those of Kant and Marx. Critical cosmopolitanism seeks to overcome the shortcomings of those notions of cosmopolitanism.



Cosmopolitanism with its global designs of the will to control and hegemonize became the logical result of the marriage of modernity, coloniality, and capitalism. Mignolo (2002) introduces a critique of this form of cosmopolitanism by incorporating the perspective of coloniality, which entails the need to discover other options beyond benevolent recognition (Taylor 1992) and humanitarian pleas for inclusion (Habermas 1999). The significance of Mignolo's work to the discussion on linking Enlightenment cosmopolitanism with Eurocentrism and colonialism is that he emphasized major historical moments throughout

which the question of rights appears as a hindrance to cosmopolitan projects of modernity and coloniality. The first moment was through the sixteenth and seventeenth centuries and the Spanish and Portuguese colonization and Christian missions when Christianity became a planetary ideal. During this phase, cosmopolitanism was faced with the difficulty of dealing with pagans, infidels and barbarians, thus the first boundary making process was of racial and religious configuration. The second moment evolved during the eighteenth and nineteenth centuries with the French and English colonialism and civilizing missions as the nation-state and law became grounds for colonialism. Cosmopolitanism, then, was faced with the difficulty of communities without states and the dangers of foreigners. Boundaries, thus, emerged between Europeans and the foreigners at the edge of Europe. The third moment was attributed to the second half of the 20th century when the United States of America became a world power with projects of transnational colonialism and modernizing missions, and when the conflict between democracy and socialism during the Cold War became most evident. In this stage, communists replaced pagans and infidels, barbarians and foreigners in the configuration of distinctions and boundaries (Mignolo 2002:158-178). Mignolo also argued for a fourth stage of neoliberalism as an emergent civilizational project, however, with the current global financial crisis, we become in a transitional phase where neoliberalism is witnessing a stark demise, and other non-necessarily-Western civilizational projects are appearing on the international stage.

We have seen how the term cosmopolitan arrived to the Greek mind following Alexander the Great's conquests, when the Stoic philosophers fused "the natural and the social orders into a single unit" (Toulmin 1990:68). This shows how the Greek ideal of perpetual peace was actually an approach searching for "a constellation into which other nations would be absorbed" (Brennan 1997:147). From this conquest-infused idea of cosmopolitanism, Enlightenment thinkers like Kant, Thomas More, Erasmus, and the Abbé de Saint-Pierre started providing schemes of international peace that eventually amounted to plans for a European coalition against the Ottoman Empire (ibid:147). Thus, questions about the Eurocentric bias of western universalism shed light on the complex relationship between Europe's expanding economic, military and political power in the rest of the world and the evolution of cosmopolitan thought (Carter 2001:11).

From Eurocentrism, Orientalism as a mode of thought has been created and became the ground on which contemporary cosmopolitanism was based. In contemporary terms, orientalism is seen as being based on established dualism of modern/traditional and/or occident/orient. Multiple approaches against this polarization have been introduced and challenged core arguments of Eurocentric classical theorists- like Marx, Weber, Hegel, Spencer, Durkheim, and Toennies. One is of Enrique Dussel's idea of transmodernity (Dussel 1996; Mignolo 2002). Another perception is of Kamali's multiple modernities and inclusive cosmopolitanism that would subvert the problematic of "Euroversalism

of Modernity"(Kamali 2006:164-5). Kamali contends that Bourdieu's idea of 'imperialism of universalism' converges with Deleuze and his critique of universal claims such as the One, the All, the true, the object, and the subject as not universals but singular processes of unification, totalitization, verification, objectification and subjectification (ibid). Mandel (2008) warns of the dangerous assumptions behind a cosmopolitan tradition that is still grounded in elitist and hierarchical visions of culture:

The entanglement of cosmopolitan discourses with the conflicting realities of empire, of globalization, and of war throws into doubt the unquestioned neutrality of appeals to a benign, Enlightenment notion of cosmopolitanism. (p.48)

Integrating the aspect of immigration into this context of linking the cosmopolitan orientation to forms of colonialism, and Eurocentrism, clearly shows the oxymoronic character of the cosmopolitan ideal that some thinkers endorse. Derrida and Hannerz are two examples. Derrida (1997) demonstrated that France had been keen to adopt the concept of cosmopolitanism to fashion its self-image of tolerance, openness and hospitality, and thus to ameliorate its position in the postcolonial discourses. Interestingly enough, this expression by Derrida came in the context of Derrida's speech in the International Parliament of Writers in 1996, which was a bad year for France, when the violent imposition of the Debret Laws on Immigrants and those without rights of residence, i.e. the "sans-papiers" took place. On another level, Hannerz (1996) presents a model that tends towards an elitist notion of cosmopolitanism privileging bourgeois cultural capital in so far as it is able to enjoy otherness (the diacritics of other peoples, cultures, places) and thus excluding immigrants from an active cosmopolitanism.

Perhaps we could link these theorizations to the occidental idea of citizenship- a fact that has been already established by Kant and his Eurocentric Weltanschauung (Nussbaum 1997; Carter 2001). Such conception has been criticized from a post-orientalist perspective. Isin (2002) argues that the western conceptions of citizenship entailed two fundamental perspectives: Orientalism and syneocism. Orientalism refers to the division of the world into essentially two civilizational blocks; the first is rationalized and secularized, and therefore modernized; the other is irrational, religious and traditional. The second perspective is of syneocism which is a way of seeing the polity as embodying spatial and political unification. The image that the first perspective reflects is of citizenship as a unique occidental invention, in other words citizenship without kinship ties. As for the second perspective, the images are of fraternity, equality, liberty and a unified and harmonious polity, therefore the citizen as a secular and universal being (Isin 2002:117-128). This argument will help us understand why we need to bring in critical studies that questioned the essential basis of

modern citizenship and thus introduced new underpinnings in the discourse of rights.

The transitional cycle of Arendt's 'right to have rights'

Hannah Arendt, in her book "Origins of Totalitarianism", had a compelling argument on the end of the "rights of man". She started from depicting the situation of stateless people and the destruction of the so-called European civilization by totalitarian politics culminating in Nazism and the Holocaust. Throughout a section of her book, she contended the existence of a 'right to have rights'. What I find most intriguing in this concept is the linkage it holds with the debate on freedom of movement as an essential human right and thus the integration of the non-elites in the cosmopolitan debate.

The flow of her argument is as follows. The influx of a large number of refugees at the gates of nation-states has proposed the first damage to the core essence of the idea of nation-states. A national framework of a state system, therefore, has been challenged by the standpoint the state has to undertake in dealing with the right of asylum. This did not just mean a state discretion to either adopt a morally based decision, or to ignore the plight of these people in favor for asserting the state sovereignty, but it also meant that once they were admitted, the whole cultural framework of the nation would be disrupted (Arendt 1966:267-302).

It is from this historical instance, the rise of the nation-state, that the idea of "rights" acquired a specific character. The thesis of social construction of rights could be utilized here to understand the transformation of the perception of "rights". Arendt (1966) sought to remind us of the basic fact of the "right to have right": "the right of every individual to belong to humanity, should be guaranteed by humanity itself" (p.298). This means that "it is from the fact of being human, not the fact of being a citizen, that rights arise" (Dummett 1992:172). I would argue that we have witnessed a transitional cycle of "social creation" of rights, to use Nett's expression (1971). The cycle starts by a departure from the recognition of basic rights to all human beings (what happened in Europe with Nazism). This meant that citizenship became an institution of exclusion of "aliens". This idea is explained by Hirsch (2003) who contends that exclusive ethnic nationalism subverted the classical model of the all-inclusive civic state. Thus, rights became increasingly dependent on national independence, which could only be won at the expense of the exclusion of others (p. 10). Citizenship in a democratic society meant freedom and an entitlement to control the social conditions to which one's life is subordinated (La Torre 2005:244). However with the advent of the global discourse on human rights; individual rights are now "increasingly codified into a different scheme that emphasized universal personhood" (Soysal 1994:136). In addition to this, there is a noted progress in major theories that tackle the idea of rights to

transnationalize the perception of rights into one that transcends a nation-state based paradigm. Natural law tradition for example extends the argument that an individual's right against a state does not arise from citizenship only, and arrives at an establishment of an individual human right to move between different states (Dummett 1992). Critical theory, pioneered by Benhabib in this regards, establishes a coherent argument for the right to membership through formulation of a democratic-theoretic groundings of rights discourse which is essentially based on the rise of international human rights regime. She contends that there are no reciprocally acceptable grounds of denying membership, and it is morally unacceptable to reduce a human being's capacity to exercise communicative freedom to those characteristics which were given to him/her by chance or accident:

Is there a human right to membership? I want to argue that there is ... From the standpoint of discourse theory, the moral argument would have to proceed as follows: "If you and I enter into a moral dialogue with one another, and I am a member of a state of which you are seeking membership and you are not, then I must be able to show you with good grounds, with grounds that would be acceptable to each of us equally, why you can never join our association and become one of us. These must be grounds that you would accept if you were in my situation and I were in yours. Our reasons must be reciprocally acceptable; they must apply to each of us equally." Are there such grounds that would be reciprocally acceptable? (2004:137-8)

I am basing the discussion in this section on the right to move as an essential human right. Nett (1971) argued that the right of people to equal opportunities is the underlying theme of all civil rights today (p. 216). In this sense, the absence of some types of freedom can make a mockery of the rest of the structure of rights. What is obvious today is that the right to move is limited to those who are already economically advantaged. As for those seeking a better life away from dire poverty or persecution, the picture of their rights becomes totally different when confronted with the nation-state's right to restrict immigration and to illegalize those who transgress the rules. Regarding immigration, universal human rights regime has put two major limits on state discretion: the right to asylum, and the principle of racial discrimination (Joppke 1999:265). Freedom from discrimination is manifested only regarding the acquisition of rights and citizenship or minimally a legal residence status for immigrants, but it is still unapplied regarding entry regulations. Thus, the hierarchization of the right to migrate can be seen as a new form of transnational discrimination based on nationality. Its basis lies in discourses on the 'naturalness' of violence in less-developed regions and the cultural incompatibility of their peoples with Western-Christian civilization (Castles 2005: 218). The net result that

we end up with is a phenomenon of people dying on their way to illegally cross borders in search for a better life. And if they survive the journey, they become deprived of their status as a human being once they reach an EU country border, as they are labeled as *sans-papiers*, since they either had no identity documents in the first place, or were confiscated from them by traffickers and smugglers. Even in the case of asylum seekers and refugees, since it is hard to prove their nationality and their right to asylum; 'illegality' becomes the characteristic describing all these persons at the border. And their destiny becomes the detention camp where they have to wait till they are deported.

The idealism of Kant's right to hospitality and the realism of "illegality"

Speaking of cosmopolitan citizens in the beginning led us to Kant, which leads us in turn to an interesting notion: that of a right to hospitality. If we look at the reality of border detention camps, where basic conditions of human rights are usually absent, it appears palpable that Kant's idealism does not materialize except on a discriminatory basis. Kant argued that "cosmopolitan rights shall be limited to conditions of universal hospitality" (Kant, perpetual peace, quoted in Brown 1992: 37). As Kant argues, while it might be good that foreigners be granted the opportunity to settle within a state or conduct other activities, the only thing they have a right to is hospitality. They may be turned away, without this causing their death, but so long as they behave peacefully, they should not be treated with hostility (Kant 1972:137-8).

Etymologically, the word hospitality derives from the Latin *hospes*, which has a dual meaning of guest and stranger, it is also linked to power and authority (Derrida 2000). Interestingly, upon translating the word *hospes* from Latin to English, we get three words as a result: host, guest, stranger (Cassell's Latin Dictionary). This supposes an inherent paradox in the concept of hospitality, and therefore explains the conditionality that has accompanied the term since the time of the Greek mythology where it has appeared, and throughout Kantian philosophy. Derrida deals with this issue in a deconstructive way, in which he makes the statement that "ethics is hospitality". This leads him to contend that being a host supposed a process of an inclusion of the other, upon which, one "seeks to appropriate, control, and master according to different modalities of violence" (Derrida 2000: 17).

Thus, Derrida questioned the inclusiveness of the cosmopolitan paradigm as envisaged by Kant by locating a double or contradictory imperative within the concept of cosmopolitanism. This critique became linked to other questions of negotiation and mediation between the absolute and the relative, and the universal and the particular, which Benhabib, for example, has expanded upon (Benhabib 2006).

If we consider the reasons for the earlier hospitality of Europe, we find the answer in colonialism and its legacy. Due to the complication of this issue, I would only note the importance of mentioning the historical fact

of opening borders to large numbers of unskilled labor from Africa and Asia to rebuild post World War Europe. The previous century could be described as the century of migration as it had witnessed two waves of migration. The North-South wave characterized the first half of the century; evident in the political and military migration movements of colonization seeking new resources of production to achieve welfare societies and economic dominance. The second half of the century and precisely throughout the post World War periods, Britain, France, Italy, and Germany had a dire need for foreign labor to build a planned economic growth. Consequently, labor was extracted from North African and Sub-Saharan countries. If we concentrate on the case of modern migration in the Mediterranean region, we find three important historical stages. The first is from 1930 till 1960s when Europe's need for labor led to a demand in migrant workers and therefore laws banning illegal immigrants were not legislated at that point.

From the 1970s onwards, Western European states reached levels of self-sufficiency. France and Belgium closed their coal mines, which were the biggest site of migrant labor. Hence, these states started putting limits on immigration. These procedures were intensified With the Schengen agreement in 1985, and in 1990 with the expansion of the number of EU member states (Aljazeera Report 2005). Since then, 'illegal immigration' became a top security issue in Europe on the one hand, and on the other, the phenomena of "death boats" started to appear on an increasing level in Northern African countries.

Whereas Western European states decided to limit the influx of immigrants, people seeking immigration themselves could not perceive the perils waiting for them once they decide to cross the Mediterranean, for example, in search for a better life. This is inferred by the long standing calls and awareness campaigns that media in the Arab world for example propagate¹.

The case of France and Germany are the most vivid examples. Both countries have contributed historically to infringing suffering on other people through either colonization or Nazism. This has impelled them to try to adorn their immigration policy with a moral outlook. However, these policies in fact were guided by strictly economic reasons. What they did not expect, however, was that the people they brought in would inevitably and eventually comprise part of the population, which is entitled some rights:

Man hat Arbeitskräfte gerufen, und es kommen Menschen [We called for labor, but people came instead]. (Max Frisch, quoted in Mandel 2008:51)

¹ Going through the articles written on irregular immigration in one of the most widely read newspapers in Egypt (Alahram) in the past year, one can see the calls to spread awareness, to the illuded youth, of the fact that Europe is no longer welcoming them as they might perceive.

The changes that European nation-states experienced in the past decades could be described as those of rising xenophobia and negative attitudes to immigrants, growing disparity between the mobility of population and capital, and the demise of the nation-state. The project of nation-building meant that a framework of rights within a bounded perception was achieved. The elaboration of a conception of the 'alien' who is not entitled to same rights has been solidly grounded in the political and sociological treatment of rights; and thus national rights have replaced universal duties and ethics (O'Byrne 2003; Turner 1993; Hirsch 2003).

From this, illegality has become the usual depiction of the alien who either appears at the border without conforming to the national laws or who is residing in a state he/she does not belong to without proper documents. In short, legality has been correlated to documented citizenship or residence. Due to the fact that, ethically and logically, no human being could be described as illegal since illegality describes acts and not persons; the term irregular and undocumented is often utilized now by academics and international organizations². Nevertheless, in major media briefings of the EU, the term 'illegal immigrants' is used³. Another point of analysis is looking at the aspect of criminalization and how it has become linked to immigration. Although immigration and criminality are separate issues, the two ideas became linked in large part due to the activities of the popular press and to hard right political parties desirous of fueling protest votes (Rees 2005: 214). Ghosh (2000) also draws on this idea of projecting a one-sided negative image of migration as integral to political propaganda. Historically, Torpey (2000) shows that the creation of the modern passport system signaled an era of states monopolizing the legitimate authority to permit movement within and across their jurisdictions: "the point here is obviously not that there is no unauthorized (international) migration, but rather that such movement is specifically 'illegal'" (p.9). The reference to the German term of *Erfassung* (Registration) that is used by immigration authorities to refer to the act of registration of foreigners at the agency for foreigners is most interesting. Torpey (2000) demonstrates that the exact translation of *Erfassung* is embrace, and thus states move from the Foucaultian aim of penetration of society to that of embracing it. The state's capacity to embrace their own subjects and to exclude others is the essence of its infrastructural power (p.11).

What is also problematic is the situation of those who manage to break away from registration. They become undocumented and usually belong

² Categories of irregular immigrants include first those who enter illegally and do not seek a legal status; who enter legally but overstay their visas; who enter and reside legally but work in illegal businesses; and finally legal immigrants working in a different job from the contract they have.

³ The European Commission in briefing the EU immigration policy for example utilizes the term "illegal immigration". (See: http://ec.europa.eu/justice_home/fsj/immigration/fsj_immigration_intro_en.htm)

to ethnic groups different from the 'host' community. Ultimately, they are excluded and discriminated against not only because of their undocumented status, but also because of their difference and 'alien' status. This was evident from the experience of Turkish guest workers in Germany who despite being legal, but because of their difference, were radically excluded:

Although European societies are heterogeneous, guest workers are excluded from the company of men and women that include other people exactly like themselves. They are locked into an inferior position that is also an anomalous position; they are outcasts in a society that has no caste norms, metics in a society where metics have no comprehensible, protected and dignified place. (Walzer 1983:59)

Thus, having the status of not just an alien but also an 'illegal' means that they are denied more severely their fundamental human rights and freedoms, including access to education and basic health and social services (Guild 2004:204). As Benhabib (2004) describes it, "undocumented migrant status means civil death and political silencing" (p.215).

How the right to have rights becomes invalidated: Irregular Immigrant Stories from Detention Camps

Orend (2007) cites the most important set of human rights as "the right to physical security; material subsistence; personal freedom; elemental equality; and social recognition as a person and rights-holder" (p.215). The encounter at the border results in four police-administered acts: apprehension, detention, orders to leave, and deportation. At each stage, the rights of irregular immigrants –as human beings– are explicitly violated. In criticizing the violation of these rights, I will juxtapose these rights to stories and experience of irregular immigrants detained at various detention camps in some European countries, namely, Greece, Netherlands, and Turkey. To establish this, I will rely on reports from Human Rights Watch and International Amnesty, as well as news from Al-Ahram Newspaper in Egypt (the biggest official newspaper), Aljazeera News Archive and other online news resources. The use of violence in treating irregular immigrants once being apprehended is reported in some cases. This usually includes verbal and physical abuse. Violence is often the measure the police adopts to determine on the one hand the smuggler and on the other hand the identity of immigrants. An Iraqi interviewed by Human Rights Watch narrated:

The Greek police caught us at 2 am. They beat everyone except the woman and the child. The police were dressed in blue. They kicked and clubbed us with long truncheons. They

were trying to get us to confess who took us there. There were seven or eight police beating about 20 of us. The beating went on for about an hour. Then they put us on a bus and took us to a police station near the beach. (Human Rights Watch 2008)

As for detention camps, they are usually characterized by lack of space, poor ventilation, and thus lack of hygiene. Excessive use of force is also reported in addition to hunger and thirst that detainees suffer from. Reporters from Human Rights Watch describe a detention camp in Turkey and Spain respectively:

Words fail to describe the sight and smell of 400 men crammed into a single room. For our own security, we were not allowed to walk into the room, but stood at the only door to the room, a padlocked iron gate, where we peered into the darkness. Though men crowded toward us, they parted their human sea so we could see the jammed crowd all the way to the wall. There was no space between any bodies; they sat shoulder to shoulder both along the walls and in the room's interior. (Human Rights Watch 2008)

At times, more than 500 migrants have been kept in a space that the Spanish Red Cross has determined to be designed to accommodate fifty people. Detainees are cut off from the outside world. There are no telephones. Visits are not permitted. Detainees can never leave the premises; they cannot exercise, and have no exposure to fresh air or sunlight. The state of medical care and sanitary conditions in the facilities also raised serious concern, particularly when the volunteer doctors at the facilities suspended their services in protest over the conditions. (Human Rights Watch 2002)

These are strong accounts of forms of exclusion that acquire a more dehumanizing form. The migrant is caged as a dangerous threat that should be looked at from far. Even trials to reach to them on a cosmopolitan basis are still bordered and hindered by iron gates. The way Human Rights Watch team described the state of migrants and their detention conditions show how the migrant becomes a dehumanized object. This object under gaze is subject to control as if it is an exotic dangerous animal.

The Netherlands offers another severe case of maltreatment of irregular immigrants and asylum seekers who are detained in boats with low levels of ventilation and daylight. A six-month detainee described the appalling conditions of his detention that also included psychological trauma:

Though they may not beat you, the conditions force you into submission; they kill you psychologically. (Amnesty International 2008)

Another female detainee in the Netherlands describes her experience:

The thing that upset me most was the humiliating experience of having to squat naked. This happened when I entered the detention centre. Removing my clothes, however, brings back bad memories for me. I also cannot understand the necessity. When you go to court and return to the centre, they make you squat again. But why? The whole day you sit in a cell and only see guards. They just want to humiliate you. (Amnesty International 2008)

Another aspect that radically violates an internationally-acknowledged basic human right⁴ is the conditions relating to asylum seekers. Taking Greece as an example, the asylum procedure lies in the hands of the police. This repudiates the presupposition of a legal framework necessary to first provide asylum seekers with legal information on their rights and also to the process of asylum. Putting the preliminary stages of the asylum process under the responsibility of police interviewers, who do not have sufficient training or independence to conduct interviews, leads to serious violations of human rights (Human Rights Watch 2008). In addition to this, Greece follows a cattle-call sort of system to organize the lodging of asylum applications. This not only proves the projection of disrespect but also deters people from seeking asylum. An Iraqi school teacher said:

"The line at Petrou Ralli is to humiliate us. It is there to make us jump like monkeys. Why can't they organize this in a dignified way?" When Human Rights Watch posed the same

⁴ 1951 Geneva Convention Relating to the Status of Refugees' article 31(1) states that: the Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

As for the 1999 UNHCR Revised Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers, guideline 2 states that: as a general principle asylum-seekers should not be detained. According to Article 14 of the Universal Declaration of Human Rights, the right to seek and enjoy asylum is recognized as a basic human right. In exercising this right asylum-seekers are often forced to arrive at, or enter a territory illegally. However the position of asylum-seekers differs fundamentally from that of ordinary aliens in that they may not be in a position to comply with the legal formalities for entry. This element, as well as the fact that asylum-seekers have often had traumatic experiences, should be taken into account in determining any restrictions on freedom of movement based on illegal entry or presence. (Source: Amnesty International (2007), Migration-Related Detention: A research guide on human rights standards relevant to the detention of migrants, asylum-seekers and refugees)

question to Brigadier General Kordatos, he said, "*They are overwhelmingly economic migrants. We don't want them clogging the system for people with legitimate claims.*" (Human Rights Watch 2008)

Consequently, and in addition to the deplorable physical conditions, and that detainees receive virtually no information about their rights, the next stage is issuing orders to leave or "exclusion orders" (as the Dutch authorities call them). Here, the problem of language comes between the detainee and his knowledge of rights. Detainees are rarely provided with interpretation or translation, even when asked to sign documents authorizing their deportation (Human Rights Watch 2002, 2008; Amnesty International 2008):

Rather than initiate a deportation procedure and enforce the removal of an undocumented migrant, the Greek authorities' usual practice is to detain the migrants and upon release from detention to hand them a paper which tells them to leave the country within 30 days. This 30-day deadline for departure, commonly known as the "white paper," is written only in Greek. (Human Rights Watch 2008)

Another problem is the incomprehensible rationalization of these authorities in assuming that the rejected asylum seekers and irregular immigrants would turn to their embassies and consulates and seek identity documents enabling them to leave legally. Usually, if the person was persecuted on religious or political grounds, or even as a refugee, it would not be possible for him/her to simply ask for an issuing of identity document to go back. In most cases, irregular immigrants are unaware of the procedures they have to go through to get identity documents from their home countries. It is also hard to prove the identity of a person, especially in the case of poor countries with poor communication and technological facilities. This leads us to "the paradox of the order to leave" since "undocumented people, by definition, lack the travel documents to leave the country legally, so if they are caught trying to leave they are arrested, detained again, and issued another white paper ordering them to leave the country within 30 days" (Human Rights Watch 2008).

The last step in this detention camp scenario is deportations. There are two facets of deportation; one is official and the other is undercover deportation which is simply an act of dumping a.k.a. *summary forced expulsion* whether in the sea or in very small lorries or just in the desert, depending on the geographic features of the country. The dilemma of identity identification is again repeated here since many migrants have no identity documents and give false names and nationalities. Here, it could be noted that the irregular immigrant becomes objectified as some sort of excessive waste and his/her right

to have rights is annulled. As determining their identities and correct nationalities can be time consuming and expensive, some states like Turkey opt to keep the apprehended irregular immigrants in detention until they provide the financial costs for their deportation back to their country. An Iraqi accounts this:

If you don't get a plane ticket, you stay in jail. In Turkey you pay for your own deportation. They tell you to contact your family to send a ticket. If the family does not give you a ticket, you stay. You are stuck. I met an Afghan man named Mahmoud in the jail in Balıkesir. He was a good man. But he didn't have money to go back to Afghanistan. I only stayed 15 days in this dirty place, but Mahmoud was there for more than a year. They separated him from his wife who was held in a different room. (Human Rights Watch 2008)

Forcible returns from one country to another in the form of official deportations do not reflect the whole picture. Other expulsions take place undercover as in the case of Greece and Turkey for example. Human Rights Watch reported some incident of illegal expulsions across the Evros River or off the Turkish coast. This means that Greek authorities simply get rid of irregular immigrants by smuggling them to Turkish borders. This act of expulsion usually comprises inhumane and illegal actions. One surprising finding was that Greek authorities have the habit of forcefully putting large groups of people (who often cannot swim), after beating and robbing them, in small inflatable boats, towing the boats towards Turkey, and puncturing them, leaving the fate of these immigrants to either death by drowning or survival by being snatched by Turkish authorities. Nearly 12,000 third-country nationals, reports Human Rights Watch, were unlawfully deposited by Greece at Turkish borders between 2002 and 2007. Several testimonies of migrants who survived this inhuman dumping act are recorded (Human Rights Watch 2008)⁵.

Sadly, there are other ways of expulsion of migrants that result in other forms of death. Spain and Morocco, for example, have agreements that force Morocco to "deal" with irregular immigrants who are attempting to illegally cross to Spain from Morocco. This is the vivid example of the idea of 'policing at a distance'⁶ by the exportation of European borders to neighbor countries where irregular immigration emanate of. Here,

⁵ The latest shocking news on such a kind of expulsion was reported in the news as around 1000 Muslim refugees from Burma (Myanmar) were feared missing or dead after Thai troops forced them onto boats without engines and cut them adrift in international waters (Aljazeera and Christian Science Monitor).

⁶ 'Policing at a distance' is an idea coined by Buigo and Guild (2005) which refers to the mechanisms adopted by states in contemporary times in border policing. Such policing is delocalized from the borders of the state through the creation of new social frontiers such as the visa regime.

Morocco has to play the role of Europe's border not only against Moroccans but against Africans who use it as a gateway to Europe.

In 2005, for example, Moroccan troops forced more than 500 sub-Saharan immigrants, including children, pregnant women and injured people, onto buses and abandoned them to die in the remote desert between Morocco and Algeria where there is no access to food or water (Medecins sans Frontiers 2005). Another example of official deportation that led to tragic results is a case of deportation of Egyptian irregular immigrants who have tried to illegally cross the Mediterranean to Europe from Libya. The result was that two Egyptians died from suffocation to death during a 24-hour ride back to Cairo in an overcrowded prison vehicle (*Al-Ahram Weekly* 2004).

Apart from the case of economic migrants, forced expulsion of migrants coming from war-ridden countries, and are therefore potential refugees, contradicts the international obligation of non-refoulement. The return of an asylum seeker who has escaped due to persecution simply means his/her possible death in his/her country upon return. In addition to this, depriving an asylum seeker from seeking asylum elsewhere than the country of his apprehension violates the basic human right to be recognized as a human being with rights and to be granted an opportunity to asylum. The cases accounted by Human Rights Watch show how people, via their fingerprints get "stuck in a revolving door" policy of being caught wherever they are in Europe and transferred back to Greece where they have the right to seek asylum. This right, however, often gets overlooked, thus pushing them to escape to another country, where they have better chances of asylum application:

A 21-year-old Iraqi Kurd who had already been deported from Greece to Turkey and from Turkey to northern Iraq where he was tortured upon his return said that he tried to apply for asylum while detained at Samos. Instead of being given a red card, however, he was only given a notice to leave the country in 30 days, which he did by going to Finland. His story continues with the revolving door transfer back to Greece-and still no consideration of his asylum claim. (Human Rights Watch 2008)

Several issues remain unsaid through these reports. One is about finding a moral claim to treat people in such ways. Throughout these reports, no justification was given by an official to explain the legal grounds of this abuse and mistreatment. This rhetorical aspect apparently remains ignored. Another issue is about discovering the line of differentiation between who can theoretically apply for asylum and who does not have a chance, except for summary expulsions in the water or the desert.

If we consider the possibility of implementing Benhabib's idea of discourse theory of morality to the insights from narratives of irregular immigration, and precisely to the context of mistreatment of asylum

seekers and irregular economic immigrants, we could point to the following remarks. First, the Greek policeman's answer to the question on asylum application queues, which I have pointed earlier, conveys the state-of-the-art way of looking at economic migrants. No international convention seems to grant them an assertion of a right to movement. However, article (3) of the Universal Declaration of Human Rights 1948 stresses the right to life, liberty and security of person. Contending that by the fact of illegal entry, the person subjects his right to liberty and security to suspension, the right to life however could neither be suspended nor negated on any grounds. The fact that every human being is a member of humanity concurs that there should be a strong justification to the deprivation of another human being's right to entry and thus to membership in a specific political community. This leads us to confront the receiving state policy of summary expulsion in the sea, and precisely in punctured boats. Nullifying the principle of reciprocally acceptable moral discourse by denying the right to participate in a discourse in the first place shows us the limitation of Benhabib's ideas. This does not mean, however, that one should accept that once a human being decides to illegally cross a border, then his rights as a human being should be suspended. I believe that the differentiation between irregular immigrants based on their purpose of immigration; whether an escape from political or religious persecution, or from dire poverty, still does not annul their access to the basic human right of life. In this case, if there is a sincere quest to respect the basic human rights as declared by the UN, and to establish a human rights regime, then an adherence to the discourse theory of morality provides a viable solution.

In addition to this, the right to asylum, when coupled with the right to representation, is seriously questioned by many paradoxes. Immigrants are either often misinformed about it, since they are told by the border police that they have to pay money for a lawyer to be granted the right to representation, or they are told they cannot bring in their families (wives and children), and if they happen to be fleeing from persecution. It then becomes obvious that their families are also in danger, and that they had gone through this trip to provide a better chance of living for their family. Here, the deprivation of the right to family would not be based on morally acceptable claims. In some other cases, immigrants were not informed of the right to asylum in the first place. This is also complicated by the occasional case of unavailability of interpreters or translators. Another fact leading to the challenging of the realization of the right to asylum is the horrible conditions of detention that immigrants go through. Accordingly, they would not be willing to apply because this would mean an elongated and delayed stay in these detention camps. Finally, the intolerance of some countries like Spain and Greece and their low levels of acceptance of asylum applications lead immigrants to lie about their nationality to avoid refoulement. Consequently, after looking at these experiential facts that result from denying legality to immigrants and asylum seekers and thus

contradicting the right to be recognized as a human being, the whole system of rights collapses and becomes replaced with a non-ending cycle of a Sisyphus-like myth.

Conclusion

I started the article by quoting Bauman and Delanty and showing the gap between the cosmopolitan elites with their "high culture" and the masses of people living sedentary lives untouched by cosmopolitanism. I demonstrated the emergence of the term that could be traced back to Kant. However, the cosmopolitanism I talked about is not that of Kant, rather of a contemporary ideal that is confronted with the phenomenon of irregular immigration in boats. By facing such phenomenon, the question that is posed to cosmopolitanism is whether it can dissociate itself from class, hierarchy and affluence so it might transform itself into a true cosmopolitanism from below (Dharwadker 2006). Based on my analysis, a positive answer to this question seems dubious.

In my contextualization of the debate on cosmopolitanism, I showed that from the start it was based on an idea of conquest and absorption of differences in a Eurocentric manner. This means that the realization of cosmopolitan citizenship is usually contingent on power balances that operate within the dialectic interaction of religion and nationalism. I tried to demonstrate the inadequacy of Kantian ideas on cosmopolitan citizenship and his "cosmopolitan right to hospitality" by projecting the phenomenon of irregular immigration and the actual reality of thousands of people dying each year while trying to travel to South European countries, and the way they are treated in case they survive the journey but get caught by the border police.

Eventually, border controls have not just contributed to more class-based discrimination, but also to a cultural and geographic one. The reproduction of the colonial moment (Mignolo 2002) is one major face of today's cosmopolitanism, where Eurocentrism still lingers on producing a cosmopolitanism that emerges from the center, while leaving the peripheries disconnected from each other. Hegemony of the center plays a powerful role on an empirical level of constructing legal versus illegal immigration as an example. As Basch et al. (1994) contend, the hegemonic constructs of race, ethnicity and nation have powerfully shaped the way social science has described immigration. These constructs have determined which actors have a stronger voice, and which are excluded from the right to global representation through mobility.

The cosmopolitan thesis is based on an idea of encounter, for only through the encounter with the Other that one tends to feel or prove oneself to be 'cosmopolitan'. However, the idea of encounter here –in the case of irregular immigrants and border police (or more abstractly sovereign nation-states)- is radically asymmetrical and comes in disequilibrium of the ability to exercise cosmopolitanism. Not only this, but it is also complicit with what Mandel (2008) called 'urban experience

of modern European travelers' for those in the end are the only ones allowed a 'cosmopolitan' lifestyle. Cosmopolitanism is therefore evident only through some sort of consumption of "high culture" through elitist participation and reproduction of inequality by exclusion. This inequality, despite its significance, is profoundly missing from the debates on cosmopolitanism, and this is what I have tried to draw attention to.

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