

A Novel Perspective on Migration:

Democratizing the Border and Building Sanctuary Cities

Shelter for migrants from Central America in the United States.

by Judith Kohlenberger

Violence, dehumanization and death are not the exception at Europe's borders: They have become the rule. Pushbacks such as those regularly documented at the Greek and Croatian borders and along the Balkan route have become an integral part of the EU's migration regime. Almost all refugees arriving via the Central Mediterranean route, according to the International Organization for Migration (IOM) the deadliest migration route in the world, report severe physical and psychological violence, torture, slavery, exploitation and forced prostitution. The policy of abandonment, i.e. withholding assistance or simply ignoring people on the move when they face adverse weather conditions and the forces of nature, is the most common

form of violence experienced both in the Mediterranean and along the Balkan route. This is compounded by systematic humiliation and dehumanization, such as when migrants are stripped to their underwear or chased with sheepdogs before being turned back across the border in violation of international law. Simultaneously, the externalization of EU asylum policy, for example through agreements with Libya, Tunisia or Turkey, legalizes, legitimizes and cements conditions in third countries that violate human rights and civil liberties.

It is in view of these developments that the French philosopher Étienne Balibar calls nation states' borders the 'limits of democracy', as they display, in fact, a veritable democratic gap.

What happens at the border is legitimized only by one side: by those within the borders of the nation-state, who are politically represented and part of the sovereign. But the conditions for crossing that very border, the strategies of deterrence and the regulations for return that apply also affect those beyond that border who seek entry – even more so than the ones inside, as one could argue. Therefore, according to Balibar, conditions for crossing the border into Europe must be negotiated by both sides to become truly democratic.

Such co-determination would not undermine national sovereignty in the sense of a complete abolition of borders but would, as he maintains,



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democratize them. In their current form, European borders can only be enforced by violence, cooperation with authoritarian regimes or comprehensive deterrence policies, which makes them essentially, anti-democratic. For individuals seeking entry, the border is far too often a legal vacuum where serious decisions are made about their fate, sometimes even about life and death, without their right to intervene or weigh in. Would it not be truly democratic if those who are subjected to (the violence of) border controls, and who suffer their consequences most severely in terms of injury or even death, also had a say in the actual configuration of the European border regime? Can Europe still afford to make decisions about its borders without the participation of those affected, who must bear the highest costs? This article discusses strategies for “democratizing borders”, such as “Sanctuary City” initiatives in the US and Europe, which can build part of the political opposition to restrictive national migration policies.

Democracy at the border

A true democratization of borders is paramount. First and foremost, this entails demilitarization, so that international law can be fully applied and enforced. Secondly, it means creating safe and legal pathways for those seeking protection, for example through humanitarian visas and resettlement programs, and liberalizing work visa regulations to make regular migration the norm. These and many other measures are well known, discussed in

numerous policy papers and tested for their practicality – yet, only a fraction of them has been implemented by only a fraction of EU member states.

Thirdly, democratizing borders means that everyone affected has a say in the actual shaping of the border regime. This includes border communities, migrants and would-be migrants, businesses and employers, trade unions, NGOs and humanitarian organizations, as well as those citizens who claim to be skeptical about migration and whose ‘concerns and fears’ politicians wish to take seriously. To bring in this plethora of voices and viewpoints, institutionalized forums for dialogue can be created, so that borders and border management are no longer seen as the mere responsibility of the nation state, but of society as a whole.

Best-practice examples already exist. When Switzerland established new criteria for regularizing migrants, its government held regular consultations with migrants and people willing to migrate from top sending countries, with authorities and cantonal governments, and with NGOs. In Portugal, the government organized roundtables on migration involving humanitarian organizations, authorities and representatives of migrant organizations to work on entry and visa conditions. In Hong Kong, the government established a dialogue with NGOs to regularize irregular migrants. The government of the Canary Island similarly organized such roundtables during which civil society actors and individuals discussed reception, integration,

regularization. Low-threshold naturalization and new forms of electoral participation, for example at the local level, also contribute to the democratization of borders and border regimes. Finally, Sanctuary Cities can divorce resident rights from citizen rights by offering support, services and protections to migrants and persons in need regardless of their residence title.

Sanctuary Cities in the US and Europe

One of these sanctuary cities is Los Angeles. Immediately after the election of Donald Trump as the 47th President of the United States, the ‘City of Dreams’ declared itself a Sanctuary City to prevent the mass deportations that Trump had announced during his election campaign. An ordinance was unanimously passed, prohibiting the city from using financial or human resources to enforce federal immigration laws. L.A. thus joined a dozen cities across the country that had declared themselves Sanctuary Cities in recent years, pledging to protect (undocumented) migrants. Since the 1980s, cities such as San Francisco and New York have taken a stand against restrictive immigration policies by protecting immigrants from deportation while allowing them to access basic social and health services, open bank accounts and enroll their children in city schools. Practices vary, ranging from refusing to carry out deportations to issuing city IDs to those who do not have federal documents.



In Europe, several port cities, including Barcelona, Palermo and Naples, declared themselves 'Cities of Solidarity'. They joined forces to call on the European Commission to manage refugee movements more efficiently and to provide more funding for social infrastructure to optimize reception and integration conditions across the country. Landlocked cities such as Munich and Freiburg are not officially part of the network but still implement some of the same solidarity practices.

Often, city initiatives emerge in opposition to a right-wing or center-right government at the federal level, thus becoming part of the political opposition in its local context. The German migration researcher Sabine Hess calls this 'a politics of urban disobedience', which manifests itself in the decriminalization of undocumented migrants, often driven by pressure built up from the bottom up by urban civil society. Practices can vary significantly: Some cities accept more refugees than national quotas allow, others open solidarity hospitals to migrants without health insurance and legislate measures against racism and discrimination or offer free access to legal advice and counseling so deportations can be prevented. In all of these practices, it is not the national citizenship that defines belonging, but the mere physical presence—a presence from which cities benefit in many ways. Migrants pay taxes, contribute to the city's infrastructure, its cultural life and health care services, and are an integral part of the community and social life.

The practice and policy of Sanctuary Cities must not mean, however, that federal concerns should be ignored in favor of retreating to the smaller, local level. On the contrary, Sanctuary Cities have 'both a local and a transnational dimension', as political scientist and activist Mario Neumann argues. The nation-state is simultaneously

undermined and transcended by refusing to recognize the limits of democracy (and, by extension, belonging) set by the nation state through citizenship, residence status or the right to asylum. In contrast, Sanctuary Cities invoke and implement universal rights to which all people, and not just citizens within a state, are entitled.

Human rights: Only one is truly necessary

Democratizing border law and management and building sanctuary cities may be localized and geographically restricted practices, but they can help spark a debate on what borders and democracy mean in the changing world of the 21st century. While it has become a truism that most people's world today does not end at the borders of their nation-state or even their continent, this reality can only be fully lived by one half of the world's population – the ones in the Global North. Universal and indivisible human rights are still, and increasingly so, subordinated to the (narrow) borders of the demos, both territorially and politically.

As a result, human rights in the 21st century remain precarious for those who do not have citizenship rights, a fact that Hannah Arendt already pointed out in the middle of the last century. 'There is only one human right', as she maintained in an eponymous essay, and this is to belong to a community, a nation, a people—to enjoy political and national affiliation. According to Arendt, all other rights derive from it. This is precisely why statelessness, as many refugees still experience it today, is the most politically precarious state: No one, and certainly no nation state in a world organized by nation states, protects you simply because you are a human

being and enjoy human rights. As long as rights are not translated into civil rights, they remain worthless.

While this has, in theory, changed with the passing of the European Convention of Human Rights in 1950 and the Geneva Refugee Convention in 1951, the precarity of those without legal residence status continues to exist. Sanctuary Cities respond to this precarity and alleviate it by offering their services regardless of legal status, thus advancing an alternative concept of belonging that is grounded in the banal material reality of migrants' presence and social, cultural and economic contributions.

Yet, the paradox that those who are most in need of human rights often have the least opportunity to claim them remains. It becomes harshly evident at the border, where those who arrive have nothing more to offer than their humanity: They have no country, no nation, no community, no passport and no political rights. That is why it is in the highly militarized, sometimes outright lawless zone of the external border that democracy today is being challenged and called upon to account for its key principles. It is at the border where modern democracies must prove that they can, indeed, live up to everything they aspire to.

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