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Migration: a step too far for the contemporary global order?

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ABSTRACT
Migration is arguably the single most salient issue in in Western democracies today. Anti-immigrant attitudes have fueled the rise of right-wing populist parties, have proved decisive in swaying a slim margin of the British public to support Brexit and have catalyzed delicate democracies down authoritarian tracks. We contend that because of predominant identity and security concerns, the free movement of people has never become a key element of the contemporary global order despite its qualifying, liberal credentials. Even in the European Union (EU), the integration of migration policy has remained fragmented and differentiated. These omissions are taking their toll as they generate friction between domestic and supranational goals, and as global problems – like the recent refugee crisis – lack 'global' or unified solutions. Migration has turned from an orphan of the global order to one of its primary challengers.

KEYWORDS Migration; liberalism; international order; European Union; refugee crisis

Introduction

Migration is arguably the single most salient issue in in Western democracies today. Anti-immigrant attitudes have fueled the rise of right-wing populist parties, have proved decisive in swaying a slim margin of the British public to support Brexit and have catalyzed delicate democracies down authoritarian tracks. As we confront the causes and consequences of the crisis of the contemporary global order, a critical look at migration reveals a number of inherent contradictions to the liberal components of this order.

We present two arguments as part of this debate on the crisis of the global order. First, we argue that, philosophically, free movement of people is inherent to liberalism, like goods and services. But, empirically, while states are heavily invested in other aspects of international liberalism – like multilateralism and trade – they have kept a tight fist of sovereignty around national immigration policy. Unregulated movement of people has never become a

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key element of the global order. Even in the European Union (EU), the lodestar of international liberalism and the most-likely case for the internalization of migration policy, integration has remained fragmented and differentiated. These omissions are taking their toll as they generate friction between domestic and supranational goals, and as global migration problems – like the recent refugee crisis – lack 'global' or unified solutions.

Second, the ongoing contradictions between international liberalism and migration have sustained an endemic cycle, wherein domestic immigration politics – often manifesting in xenophobic and far-right party support – contribute to ongoing skepticism of the contemporary global order, which, in turn, generate more national identity politics. In conclusion, migration has turned from an orphan of the contemporary global order to one of its primary challengers.

What's liberal about migration?

Liberalism – both as political theory and as economic ideology – is fundamentally pro-migration. Liberals' commitment to basic, pre-political freedoms of the individual makes them outward-oriented cosmopolitans when theorizing the international domain. For liberals, the freedom of movement is a basic liberty in its own right and a prerequisite for other freedoms such as the freedoms of association and occupation (Freiman and Hidalgo 2016). As Joseph Carens (1987) has forcefully argued, both the libertarian theory of Robert Nozick and the interventionist liberalism of John Rawls, the right-wing and left-wing antipodes of twentieth century liberalism, call for open borders.

Liberalism as an economic ideology comes to the same conclusion. The argument for the free movement of labor is essentially the same as for goods, services, and capital: removing barriers to free movement facilitates the allocation of factors where they create the highest value. The movement of labor from low-wage countries to high-wage countries not only benefits the migrants and their families, but also the global economy.

Despite these twin liberal impulses towards open borders, the free movement of people has remained highly contentious in the contemporary global order. International migration is a rare case of a trans-boundary problem without a 'coherent, multilateral global governance framework' (Betts 2011, 7). It lacks a global international organization similar to the WTO for trade or the IMF for money and finance, as well as a formal, legalized international regime (except for the protection of refugees). The institutions that do govern international migration are weak, fragmented, and characterized by thematically as well as spatially limited arrangements. Global Compacts for migration and refugees were only adopted in 2018. And even though they are not legally binding, they were opposed by large recipient countries, including the US and several members of the EU. In even the EU – the most complex

and penetrating of international organizations – we see sizable differentiation, with free internal movement within the EU combined with a variety of immigration and asylum policies for those coming from outside the EU.

In short, the 'architecture … departs from the liberal institutionalist model of multilateral regime building that we know from other fields of cooperation' (Lahav and Lavenex 2012, 767). Why is this the case? It is not for a lack of ideational or normative fit with the principles of liberalism, as we note above. Moreover, a multilateral and open international migration regime would be in line with the basic substantive elements of the post-World War II global order. As Eilstrup-Sangiovanni and Hofmann note (this issue), the contemporary global order is fundamentally characterized by migration-compatible liberal features, in that it promotes economic openness and interdependence. It is not even necessary to include 'civic identity', encompassing ethnic toleration, shared values of personal freedom, and a progressive international institutionalization of human rights, in the principles of the contemporary global order, as Deudney and Ikenberry (1999) do, to come to this conclusion.

Such a global migration regime would not even contradict the 'embedded liberalism' compromise between a multilateral, non-discriminatory international order and domestic interventionism assuring social security (Ruggie 1982).[1] Ongoing debate in economics notwithstanding (see, e.g., the controversy about Borjas 2016), the overwhelming evidence produced by international organizations such as the IMF or the OECD does not show any systematic negative effect of immigration on wealth, equality, fiscal or social systems (Docquier et al. 2014; Jaumotte et al. 2016; OECD 2013). At any rate, and in correspondence with the paradigmatic regimes for trade and money, embedded liberalism would call for a multilateral regime with international capacity to assist states and temporary national derogations of the free movement in migration crises – rather than the absence of a multilateral regime at all.

To account for the outlier status of international migration in the global order, it is important to consider both the 'pre-functional' or sovereignty-based and the 'post-functional' or community-based logics, which affect international cooperation and openness in this area. First, migration is 'securitized' (Adamson 2006). States often regard migration as 'high politics', a challenge to state sovereignty and, in particular in relation to terrorism and transnational organized crime, a security problem (Lahav and Lavenex 2012). Second, migration is 'identity politics', perceived as a threat to national community and solidarity. Consequently, even in liberal democracies, both state and societal actors tend to replace the liberal, cosmopolitan framing of migration as an issue of personal freedom and economic utility with a 'communitarian' framing of national sovereignty and identity. This framing politicizes the free movement of people and locates it outside the legitimate domain of a liberal international order. James Hollifield (1992) has aptly termed the tension

between economic and rights-based pressures for openness, on the one hand, and state and community protection, on the other, the 'liberal paradox' of immigration policy. In practice, states can commit to certain aspects of liberalism while simultaneously exercising the right to include or exclude (Joppke 1998).

What is more, even though it has remained marginal in the architecture of the contemporary global order, the accelerating growth of international migration in the twenty-first century has had pervasive effects that threaten the core of this order. The threats to national community and solidarity allegedly emanating from international migration have become the most powerful rallying call and mobilizing issue for (right-wing) populists, who claim to represent the legitimate 'we' group in advanced industrial democracies. Their ascendancy not only has policy, but also domestic and international polity effects. It is not confined to producing restrictive immigration and asylum policies or chauvinistic welfare arrangements; it threatens core institutions of liberal democracies (the rule of law and the separation of powers) and their commitment to a multilateral, rules-based international order.

Thus, we need to think about how the crisis of the global order is filtered through immigration politics, where – particularly given the rise of national populism – rejecting immigration and rejecting liberalism go hand in hand. While not confined to Europe, this explosive effect of migration is particularly pronounced in the EU, which combines a liberal democratic membership with the most integrated (regional) free movement regime around the world. If a multilateral, state-led, and economically-open response to migration is going to occur anywhere, it would be the EU. Yet it is here that the liberal paradox and the potential disintegrative impact of the migration issue has become most visible.

The liberal paradox in the European Union

Immigration policy development in the EU has been uneven. In some domains, the EU has achieved remarkable coordination on regulating the movement and assignment of status to individuals, namely free internal movement and robust external borders and strong border security (Schilde 2017). In other areas, member states retain absolute sovereignty, including the conferring of citizenship, immigration policy for third country nationals, decisions over applications for asylum, and policy strategies for immigrant integration. The evolution of these differences quintessentially reflects the liberal paradox, where an economic logic of openness comes into conflict with a political logic of protective closure. In the EU, this plays out across multilevel governance. It also places contemporary exclusionary, anti-elite populist politics into a larger context of reconciling competing economic and political tensions.

Free movement was part of the original vision of Europe, presented in the 1958 Treaty of Rome as the 'free movement of persons', alongside other freedoms of services, capital and goods. Importantly, the Treaty applied to free movement for workers who are Community citizens, to accept employment across the community. Codified in 1968, it was expanded to include freedoms of establishment and services. By the 1980s, to support passport-free travel with the Schengen Area as stated in the Single European Act, member states worked with the Council and Commission to strengthen the regulation of external migration, such as visa policy and asylum (Goodman 2019). Finally, with the 1992 Treaty of Union, free movement rights became attached to the concept of Union citizenship, providing selective political and social rights for EU citizens residing outside their home country.

Despite these steps, policy development is stuck, and a consequence of partial development is policy differentiation at the national level, where states use a variety of policies (like immigration, asylum, welfare, and citizenship) at a variety of settings (some more exclusive than others) to domestically balance economic openness with political closure. But this fragmentation and divergence is also where the national and the supranational come into conflict. With free movement and integrated markets, problems that were once exclusively domestic became shared but the tools to resolve them stayed fixed at the national level. The inevitable friction that results from using fragmented domestic levers to reach mutually beneficial supranational goals portends problems not just for liberalism at home but for a liberal international order. We present immigration and asylum policy areas as brief illustrations of how this friction emerges.

First and foremost, immigration policy itself is highly particularized by nation-state needs and preferences. States have different labor migration needs, driven by different sector demands and variation in demographic decline (Ruhs 2013). So while sharing in a single economic union, states meet specific labor market needs – especially decisions pertaining to the admittance of third-country nationals (immigrants from a non-European country) – through state-level policy and politics. This tension reveals the heart of the liberal paradox: open immigration from outside Europe meets certain economic needs, but brings with it political challenges, as non-EU immigrants become the most contested and politicized by nativist politicians. Figure 1 maps immigration of first (returning citizens to their home country), second (citizens of a second EU member state), and third country nationals (immigrants from outside of the EU), as well as those categorized as stateless.[2] In each member state, as well as the EU as a whole, second country nationals represent only a modest component of overall immigration. In other words, the single market – the domain of EU authority with the most integration in establishing free movement – is only a fractional slice of the overall immigration pie. Most migration *to* the EU is not governed *by* the EU. This limits the

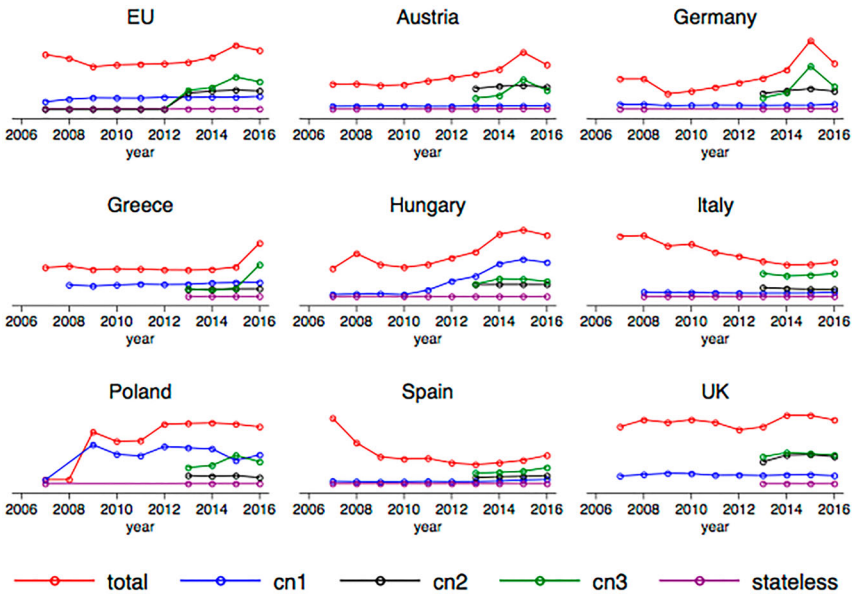

Figure 1. Migration by Category, 2006–2016.

extent to which the EU can mount a unified response to a transnational problem, like the recent refugee crisis. Moreover, as each state exhibits dynamic immigration change over time, the decision of one country affects the other 27. And what may be economically beneficial to one state may prove politically unacceptable to others.

A second area of national differentiation is in asylum procedures and decisions. Here, the consequences of uneven development in migrant-related policies are particularly evident with the lack of solidarity and coordinated response to the 2015 refugee crisis. First, the Dublin Regulation shifts the burden of handling asylum requests away from core states and to the periphery states on the border of the EU. Second, while the Common European Asylum System lays out a number of regulations and directives regarding standard procedures and conditions, policy and practice are weakly harmonized (ECRE 2018). Third, the spillover effects are enormous. Overburdened (southern) front-line countries (deliberately or not) fail to register and process asylum claims, pushing asylum-seekers to (northern) member states with better asylum and living conditions. Germany's decision to admit over one million asylum seekers reverberated in all directions. Nearby states (Poland, Hungary) rejected a strong supranational capacity to protect EU external borders or provide for a fair distribution of migrants. Other states (France, the Netherlands) under-committed to redistribution by free-riding on Germany's generosity. As states 'go it alone' or pursue strategies outside

of the EU, EU asylum policy struggles to meet its already-modest objectives – to prevent 'asylum tourism' and transfer the principle of 'mutual recognition' from the internal market (Lavenex 2018; Trauner 2016).

From liberal paradox to anti-liberal backlash

Both policy areas – immigration and asylum – highlight where states are struggling to strike a politically-acceptable balance given the constraints of the liberal paradox that seeks to maximize both labor market openness and social closure. If we think of this complication as generating friction on a horizontal plane – that is, both within- and across-states – the EU adds a complicated, vertical layer of goal-setting and authority-sharing. Thus, a central problem with the EU's migrant-related policies is that their unevenness generates incentives for free-riding and race-to-the-bottom dynamics. The efficiency-oriented 'functional' response to this problem would be regulatory harmonization and supranational capacity-building. Because of national concerns about sovereignty and community protection, however, international agreement on the functional response has proven elusive.

Not even the refugee crisis of 2015 produced significant change. The Eurozone crisis forced reluctant member states to agree to a major leap of integration because the costs of disintegration were prohibitive, the most affected member states were unable to cope with the crisis unilaterally, and a supranational actor with strong autonomy and high resources (the European Central Bank) was already in place. By contrast, in the refugee crisis, even weak states could fence off, or wave through, migrants; the costs of a partial suspension of the Schengen regime were moderate; and supranational actors with the competence or capacity to provide an EU-wide solution did not exist. As a result, the member states managed the crisis through a mix of unilateralism (re-establishing border controls and toughening asylum standards) and externalization, i.e., assistance to third countries such as Turkey and Libya for curbing the migrant flow (Schimmelfennig 2018). Even though citizens and national governments turned to Brussels for a 'European' solution, the EU was unable to produce one given heterogeneous status quos, unaligned member state preferences, and weak institutional powers in the area of migration (Goodman 2019).

In the absence of EU authority, immigration politics remain at the domestic level which have become increasingly anti-immigrant, both substantively and structurally. To wit, anti-immigrant attitudes are a core component of the cultural GAL-TAN dimension of politics and of the 'demarcation' pole in the emerging transnational cleavage in European party systems (Kriesi et al. 2006; Hooghe and Marks 2018) – together with protectionist and Eurosceptic positions. The rise of right-wing populist parties, and their widespread participation in EU member state governments, has fed illiberal immigration

policies across Europe, which has led to paralysis in EU decision-making on the issue. The salience of migration, and the incapacity of the EU to agree on effective and solidarity policy solutions, has also boosted the electoral fortunes of parties opposed to liberal democracy and supranational European integration in general. In many Eastern European countries, large-scale emigration of nationals reinforces the fear of immigration of non-nationals (Krastev 2017).

The damage to European integration is pervasive, and crucial for illustrating the limits of the contemporary global order moving forward in a liberal direction. First, especially in Hungary and Poland, right-wing governments riding the anti-immigration wave undermine the rule of law, the independence of the judiciary, and the freedom of the media, which are fundamental values of the EU and crucial for its functioning as a community of law. Second, several EU governments have kept controls at internal Schengen borders in place since September 2015 – renewing temporary emergency measures that would otherwise be in direct contravention of EU law and even though the migration surge has long abated. Third, migration has been the single most important issue in the campaign and vote for Brexit (Clarke et al. 2017). In sum, it is fair to say that no other policy issue generates as significant disintegration pressures in the EU as migration – including unilateral renegotiation bids and withdrawals as in Brexit as well as non-compliance with international norms as in the Schengen crisis (Copelovitch et al., this issue).

Even if these disintegration pressures can be contained, the immigration issue is realigning political and intergovernmental coalitions in the EU. In a press conference on 10 January 2019, Hungary's Prime Minister Viktor Orban, unchecked vis-à-vis his continued alignment with the centrist European People's Party Group, hailed these developments and expressed his desire to see 'anti-immigration forces' to take over national governments and the European Council. In his perspective, migration has 'radically transformed Europe' and defines its 'political processes': 'The division of party structures as left or right is being overtaken by a different dimension: those for migration and those against migration'.[3]

The past two decades have seen unprecedented – and unevenly distributed – levels of migration come to Europe. In the absence of strong supranational authority, states have chosen to remain the default setting for resolving conflicts of the liberal paradox. This status quo portends some unsettling conclusions for EU political authority and the international liberal order more generally. As a fragmented migration regime, characterized by lack of coordination and harmonization across 28 EU member states, the EU nominally preserves disequilibrium and disincentivizes solidarity. It lacks authority to either resolve exogenous migration problems or ameliorate endogenous one. Migration is a crucible, wherein states not only question the incentives of multilateralism but the benefits of international liberalism

more generally, as evident in the strong illiberal and national populist backlashes across the European continent and beyond.

Conclusions

A global, multilateral migration regime has proved a step too far for the liberal international order. Even in the 'most likely' case of the EU, a fragmented and disequilibrated migration regime has only exacerbated the tensions inherent in the liberal paradox of migration policy. This paradox has been a consistent feature of both the domestic and the global liberal post-World War II orders. Yet the consequences of the tensions and deficits of international migration regimes are not limited to international migration policy. As we have argued in this paper, the rise in international migration pressures has contributed significantly to the rise of populist leaders, parties and governments throughout the core states and regions of the contemporary global order. They threaten to undermine not only the principles of this order (such as multilateralism) and its main policies (such as trade) – leading to unprecedented disintegration threats – but also the domestic foundations of liberal democracy. In this respect, migration – an orphan of the contemporary global order despite its liberal credentials – may indeed be turning into its nemesis.

In principle, states could take two ways out of this situation, either separately or in combination. For one, states could follow up on the Global Compacts on Migration and Refugees to build the migration regime that has been missing in the global order. Yet anti-immigrant populist governments have already become so widespread in the EU and worldwide that decisive steps in this direction appear unlikely in the short term. It is therefore tempting to conclude that practical solutions are best found at the domestic level, in a mix of strong external border and immigration control alongside integration and social policies to address internal, domestic resentment (Bisbee et al., this issue). This combination may suffice the current situation – to contain the disintegration pressures emanating from migration. But it will not do away with either the rise of international migration pressure or the other side of the liberal paradox, that (ageing) Western democracies will depend on immigration to uphold their living standards in the future.

Notes

1. That embedded liberalism was constructed on the backbone of migrant political exclusion is but a further paradox (Goodman and Pepinsky 2019).
2. This disaggregation is made available by Eurostat from 2013 to 2016.
3. 'Orban calls for anti-immigrant takeover of EU institutions', *Financial Times*, 11 January 2019.

Disclosure statement

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