

# THE REFUGEE CRISIS AS A EUROPEAN DEMOCRATIC CRISIS

CHRYSSOULA KAPARTZIANI  
*Kapodistrian University of Athens*  
*xkapartziani@yahoo.gr*

KATERINI PAPATHANASIOU  
*Independent scholar*  
*papath.kat@gmail.com*

*Abstract:* The institutional European Union is facing two types of crisis. On the one hand, it needs to manage the current refugee's influx efficiently and on the other hand it needs to deal with the democratic deficit that emerged by Europe's incapacity to make the required decisions and gain the justification of its actions from its own people. This article aims firstly to highlight the legal framework (rule of law) that governs the asylum and migration procedures as well as the democratic gap that these provisions created in the different member states, as a crystal clear example of how a national competence became supranational. Furthermore, it illustrates the refugee profile, as a human being with acquired human rights through the theories of H. Arendt and the U. Beck. Lastly, the cosmopolitan approach is suggested in order to overcome the refugee crisis but a well-established integration should be the long term goal of Europe.

*Keywords:* asylum policy, European Union, cosmopolitanism, refugee crisis, democratic gap.

## INTRODUCTION

“Global systems of the twentieth century were designed to address inter-state tensions and civil wars. War between nation-states and civil war have a given logic... twenty-first century violence does not fit the twentieth century mould... Violence and conflict have not been banished... But because of the success in reducing inter-state war, the remaining forms of violence do not fit neatly either into “war” or “peace”, or into “political” or “criminal” violence”<sup>1</sup>.

War or even war threats create global risks. The non-ending, ever-lasting threats of war, which is changing forms and appearances (civil, religious wars, wars against terrorism, economic wars, etc.) condemn large areas of the world to a chronic insecurity. Obviously not only the regions affected by war or of the thread

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thereof are dealing with chronic insecurity and instability but also their neighbouring regions and those who are dealing with the humanitarian aspect of war. The resulting refugee flows of innocent civilians have profound consequences, not only for the individuals directly affected but also for the communities that are hosting them.

Various terms have been used to conceptualise contemporary conflict – wars among the people, wars of the third kind, hybrid wars, privatised wars, post-modern wars as well as ‘new wars’ (Duffield 2001; Eppler 2002; Hables Gray 1997; Hoffman 2007; Holsti 1996; Kaldor 2012; Munkler 2005; Smith 2005; Snow 1996; Van Creveld 1991). In theory the criticism arises with the definition of new wars<sup>2</sup> and the debate if they are actually new or not. However, what is still lacking in the debate is the demand for a cosmopolitan political response. In the end, policing, the rule of law, justice mechanisms and institution-building depend on the spread of norms at local, national and global levels. And norms are constructed both through scholarship and public debate. If we are to reconceptualise political violence as “new war” or crime and the use of force as cosmopolitan law enforcement rather than war-fighting, then we have to be able to challenge the claims of those who conceptualise political violence as “old war”, and this can only be done through critical publicly-engaged analysis (Kaldor 2013). The engagement of the public in the democratic western societies sounds more like a theoretic exercise rather than a pragmatic scenario. The reason for that is the fact that the changes in the international chessboard are happening so fast and most of the times too distantly in order for the people to process them. On the other hand, the modern way of living is promoting globality and mobility in areas of working, styling, travelling but at the same time it widens the relationship between the people and the commons in one area.

For this engagement determined and goal oriented actioners are required but in parallel the collapse of global financial markets, climate change, wars, as well as transnational conflicts is happening and affect everyone, every region and every person simultaneously. Thus, in a way these global problems create a common global risk and endow each country with a global common interest to minimise it. Global problems share global solutions and require global cooperation. This is the reason why the

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“principle of globality”, a growing consciousness of global inter-connections should be more present than ever (Albrow 1996). How relevant is this in today’s Europe?

According to Ulrich Beck (2002: 39-55),

We should seize the opportunity to reconcile the European political project as an experiment in the building of cosmopolitan states and we could envision a Cosmopolitan Europe whose political force would emerge directly not only out of the worldwide struggle against terrorism, ecological and financial risks, but also out of both the affirmation and taming of European national complexity (...). Cosmopolitan states emphasise the necessity of solidarity with foreigners both inside and outside the national borders. They do this by connecting self-determination with responsibility for (national and no national) Others. It is not a matter of limiting or negating self-determination from its national cyclopean vision and connecting it to the world’s concerns. Cosmopolitan states struggle not only against terror, but against the causes of terror. They seek to regain and renew the power of politics to shape and persuade, and they do this by seeking the solution of global problems that are even now burning humanity’s fingertips but which cannot be solved by individual nations on their own. When we set out to revitalise and transform the state in a cosmopolitan state, we are laying the groundwork for international cooperation on the basis of human rights and global justice.

Dealing with chronic insecurity, such as the aforementioned, requires a difficult process of minimising all types of violence and establishing an enforceable rule of law as well as justice mechanisms (judicial system, policymaking, citizen’s movements and community involvement). A rule of law is necessary both to provide space for politics based on trust and reasoning rather than fear and insecurity, as well as to shift from a predatory conduct of violence to a context where it is possible to find legitimate ways of making a living. In situations where the state and domestic law is weak, then international law should, in principle, come into play along with strong justice mechanisms (Caldor 2012). No one can claim that modern Europe has inadequate legislation and policies in place capable of tackling the current refugee crisis as in more detail in section B (The rule of law) will be highlighted. However, the rest of its justice mechanisms (citizen’s movements and community involvement) are atrophic. And that’s exactly what prevents its people from seeing the global problem as local.

“Europe’s 2015 started and ended with terrorist attacks in Paris, which had spill over effects in Belgium and several other European Union (EU) Member States” (Papademetriou 2015).

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Greece in particular, is experiencing since 2015 a migration crisis, dealing with the largest mass influx of people, who crossed or tried to cross the European soil, since the end of World War II. Families have been uprooted, family members are displaced, hundreds of lives have been lost, and continual flows of asylum seekers appearing on Greece's – Europe's doorsteps, seeking a life away from the howl of war. Notwithstanding the fact that Greece is confronting the worst economic crisis of its modern times, public anxiety has risen and everyone can understand how vulnerable and insecure this additional crisis makes both the Greek citizens and the refugees. Therefore, Greece cannot tackle this crisis without external help, namely the cooperation of European and other regions is necessary and inevitable.

The aim of this article is to highlight Europe's fragile democratic conduct in the current refugee crisis. The first part is focusing on the legislative aspect, while the second one on the socio-political.

## THE RULE OF LAW: INTERNATIONAL LAW

“Law creates rights. It doesn't merely define them; it creates them. Without law, one may what he can. With law, one can only that which he may” (Hamill 1917: 1). The foundation of international law stems out of the agreement on the rules of war and peace. In the period of ancient and medieval empires, it had a very narrow scope but when national states were created the ideas of sovereignty and legal equality of all states (Grotius 1625) were respected in international disputes in order to reach an agreement. However, international law was significantly developed because of the new war laws that the new warfare during the World Wars resulted. Several treaties were concluded between mostly the western states, but it was only after the end of WWII, when problems like restoration of boundaries, care of refugees, and administration of the territory of the defeated enemy needed to be addressed by a more solid agreement and body. The United Nations were formed as an intergovernmental organisation in 1945 where all major colonial countries were represented. Among others the Charter of the International Military Tribunal was adopted in

which the definition and the punishment of war crimes was regulated.

One of the principal goals of the UN is the protection of human rights<sup>3</sup> as the Universal Declaration of Human Rights, which was adopted in 1948 underpinned. Despite this, it is worth to be mentioned that the idea of human rights is not universal and that human rights do not necessarily exist in every society or advanced civilisation. The years after the WWII were characterised by a burst of conventions and agreement conclusions usually initiated by the western states in order to “make the world safe for democracy” (as U.S. President William Howard Taft said when he announced the League to Enforce Peace).

The war refugees were the future asylum seekers and this forced discussion among states that lead to the Geneva Convention in 1951. Notwithstanding the fact that the Convention and the New York Protocol of 1968 can be considered out-dated as they do not cover the contemporary refugee situations it remains the cornerstone legislation regarding asylum and immigration policy and as the UNCHR stated in the European Commission Lisbon conference on the 15-16 June “it is a unique declaration by the 139 States Parties of their commitment to uphold and protect the rights of some of the world’s most vulnerable and disadvantaged”.

A refugee, according to the Convention, is someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion. Further, it should be noted that refugees lawfully staying in a territory of a signatory party are accorded the same treatment and rights as the nationals in the areas of access to justice (Chapter II), gainful employment (Chapter III), welfare like housing, education (Chapter IV) and administrative measures such as freedom of movement within the territory, travel documents, naturalization etc. (Chapter V).

Nevertheless, the 1951 Convention is reasonably criticised because it provides a so called single solution of asylum and it is not flexible enough to deal with complex issues and to protect the new refugees like those fleeing from ethnic violence for example in Bosnia or Kosovo, or those women who face gender-based persecution. Thus, it has no mechanism for mass influx and it does

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not impose any burden sharing between states (based on their capacity)<sup>4</sup>.

## EU FRAMEWORK

Although the Convention was the incarnation of the European democratic values as they were stipulated after the WW II, the Member States of the European Union decided to cooperate on asylum and migration matters only in the late 90's. Since 1980 a modest development in the 3<sup>rd</sup> Pillar of "Justice and Home Affairs" has occurred because it falls under national competences but in 1999 at the Tampere European Council, they recognised the advantage of a "Common European Asylum System (CEAS)" (Kaunert and Leonard 2012: 7-13).

Since the 9/11 attack the U.S developed a "securitised approach (J. Huysmans 2000; J. Parkin 2013), which links migration and movement to evils such as transnational organised crime and terrorism (Mitsilegas 2012: 3-60)". Consequently, this had a significant impact on the European security and migration policies (in other words open and close border policies). Therefore, we observe two centrifugal actions from the European institutions side. On the one hand the basic legislation mainly in form of directives concerning the minimum standards on the asylum procedures is in force and needs transformation into national law, whereas on the other hand i.e. the establishment of VIS (European visa system), EURODAC (EU fingerprints biometric database), the empowerment of FRONTEX, Europol, Eurojust are signs that the MS have transferred gradually the competencies of migration and border control from a national to a supranational level.

European Migration Policy as of today according to the Commission's factsheet<sup>5</sup>

includes policies on legal migration, irregular migration, borders, visa, a Common European Asylum System and the external dimension. In addition, the European Union has an Asylum, Migration and Integration Fund to support Member States with the efficient management of migration flows and the implementation, strengthening and development of a common European approach to asylum and immigration<sup>6</sup>.

This is a crystal clear example of how local democracy becomes European. However, the question remains “how democratic was this transition and have the citizens of the EU Member States adequate information/participation in the decision making process?”.

This section will highlight the basic legal documents that consist the Common Asylum European system (CEAS) , which is divided into the following phases: the first stage of the CEAS covers the period from 1999-2005, in which state power in the transformation of the Directives and border control were dominant whereas during the second stage (2010-2014), namely after the Lisbon Treaty<sup>7</sup> entered into force the third pillar of the EU has been renamed into “justice, freedom and security” and a shared competence between member states and European institutions has been introduced. In other words, both the Commission and the European Court of Justice can apply and enforce the implementation of European Legislation in Member States. These two phases follow the political decisions and goals that were set out by the Council first in the Tempere (1999), then in The Hague (2005) and finally in the Stockholm Programme (2009):

a. The Dublin II 343/2003 Regulation, as revised by 604/2003 (recast) Regulation, which establishes the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national. The country responsible for processing an asylum procedure is the one where individuals first set foot on European soil, unless he/she is an unaccompanied minor and/or the member of his/her family reside in another Member state.

b. The Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status, as revised by Directive 2013/32/EU (recast), which aims quicker and better asylum decisions, while special attention should be drawn at vulnerable groups such as unaccompanied minors.

c. The Reception Directive 2003/9/EC as revised by 2013/33/EU (recast), Directive, which lays down standards for the reception of applicants for international protection, namely it ensures that the asylum applicants receive humane material recep-





tion conditions and that they are detained on a temporary basis and only if necessary.

d. The Qualifications Directive 2004/83/EC as revised by 2011/95/EU Directive, which defines under which conditions the third country nationals are eligible to receive subsidiary protection.

Moreover, the above legal tools should be examined in the light of the rest of the European legislation, which aims to tackle the smuggling of migrants in the EU, trafficking in human beings, organised crime and terrorism. A first observation to be made is that the legal instrument decided to regulate these areas was mainly European Regulations and not Directives, namely primary European law with immediate effect in all member states (except the ones that have opted out). The EURODAC Database (2725/2000 Council Regulation as revised 603/2013 Regulation and again in 2015)<sup>8</sup> the Visa Information System (767/2008/ EU Regulation) and the Schengen Information System (1987/2006 Regulation) have upgraded the biometrics into a central element of EU immigration control<sup>9</sup>. This legislation in conjunction with the cross-border control, the establishment of a European Border Surveillance System (1052/2013 Eurosur Regulation)<sup>10</sup> and the data sharing between national police authorities, Europol and Eurojust is “a clear example of the trend to securitise migration and blur the boundary between immigration and police databases” in the name of internal security and combatting terrorism. By choosing this form of legislation the Council and the European Parliament (in other words the prime ministers and the elected representatives of the member states) have agreed that the internal security of the Union is an overarching priority, which justifies restrictions on the universal human rights protection (by the term human rights protection it is understood not only the rights of migrants or third country nationals but also the citizens of the Europe). In our opinion however, the EU representatives do not have an actual (and not a theoretic) democratic mandate from the majority of their people to make this judgement.

Nevertheless, even if the above mentioned information and legislation is easily accessible online to everyone and the decision making procedures could be tracked as they are transparent, it is highly doubtful that the necessity and the proportionality of this integrated border system, the police new powers, the long term

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detention of asylum seekers and the use of coercion, as well as the violation of the data protection rights and privacy is adequately communicated and justified to the majority of the European citizens. Despite the fact that since 2005 at the Hague Program it was decided to “support migration to fulfil the needs of the EU countries’ labour-markets”, to “promote the integration and the rights of migrants”, “to respect diversity and to protect the most vulnerable groups of people (children, minorities such as Roma, victims of violence, etc.), while racism and xenophobia are tackled; and to raise public awareness” it can be said that the abovementioned initiatives remained wish lists on agendas, based on how unprepared European societies reacted during the current immigration crisis<sup>11</sup>.

Moreover, it is fair to be mentioned that many actions to raise the well promised public awareness were initiated not only by the EU institutions through Communications, Guidelines, Surveys, and Handbooks<sup>12</sup> but also by the European Court of Human Rights and the social partners like NGO’s. UNCHR and the NGO’s among other actions, collect data and provide reports about refugee profiling. They are constantly monitoring the asylum procedures in the Member States, publish factsheets and comment on every legislation proposal but they do not represent the channel, which will trigger an enhanced social involvement. In other words, there is very limited in-depth research concluded with regards to the8 educational and social background of refugees and third-country nationals, regarding their cultural and regional diversities and even if the relevant information exists it is not shared across the MS, as an attempt to exchange knowledge, experiences and best practices. On the other hand, several surveys have outlined the attitude of the European citizens towards the asylum policy, which is characterised by a tendency to oust the problem from their local communities and to promote a global solution. Therefore, it is essential that continuous monitoring is in place, as well as an exchange of information mechanism among the competent stakeholders of the MS. The latter approach could help the Member States and the institutions of the EU to better understand and facilitate the migration flows. Further, it could create a useful think tank and a shared database or “democratic fora” in order to develop consistent educational programs within the MS based for example focusing on the specific characteristics of the most populous community in their country.

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Unfortunately, the absence of the above leads to institutional ignorance and to an over-legislation without practical implementation. All or some of the above actions should have been a priority roadmap for the European leaders since the Tampere Meeting with the hope that the European societies would have been more matured, open and prepared to accept and manage the current refugee influx.

In this regard, Europe is experiencing a democratic deficit because, it has chosen to isolate its citizens from the decision making process on a ground level, when they were never asked about their views, beliefs and best course of action on the immigration/migration as well in the extended border control and security measures. Europe has provided the legal framework (rule of law) and has encouraged justice mechanisms (ECJ case law, case law from the national courts, policymaking, research, etc.) to flourish but it had neglected or underestimated the signs of this refugee outburst for over decade.

For instance, there was no extended infrastructure proportionally developed among the MS for the design and construction of centres that they would able to provide special care to vulnerable groups such as minors, unaccompanied children, and pregnant women. There was no special care to establish structures that are able to heal the (physical and psychological) health of these displaced persons.

Consequently, Greece is facing the inevitable consequences of the above political decisions. Hence the mass influx of the displaced and immigrants has pushed the European foundations to its limits, the Member States have replied with border closing, erection of fences, racist and xenophobic reactions and above all, they have claimed their sovereignty. It is considered safer and easier to suspend the borders on the northern part of Greece, where refugees used to cross through the Balkans to central Europe than to apply the demonstrated principles of solidarity and equality among member states. It is considered more democratic to apply the EU – Turkey Agreement as of March 18 to block more than 55.000 refugees and asylum seekers in Greece with no established infrastructure (the construction of hot spots began only in February 2016, the rest of the detention centres are being constructed and the minimum detention condition standards cannot be guaranteed) than work together to overcome this crisis. It is propor-

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tionate, having the EU Council decision as legal ground, for Greece to recognise by law Turkey as “safe third country”, despite the fact that the UNHCR and all the human rights watchdogs report constant violations of the refugee’s human rights.

This deviation from the norm is illustrated when the figures of the children and especially of the unaccompanied minors that arrived in 2015 and 2016 are examined. It is estimated that approximately one million people reached Greek soil in 2015, and 35.000 since the beginning of this year. Out of this a 25% on average is made up of the children. Based on a Europol statement, “at least 10,000 unaccompanied child refugees have disappeared after arriving in Europe, according to the EU’s criminal intelligence agency. Many are feared to have fallen into the hands of organised trafficking syndicates”<sup>13</sup>.

With respect to children, Human Rights Watch notes that all children should have access to child-friendly, multi-disciplinary, and culturally sensitive asylum procedures, which should be based on the best interests of the child and result in prompt formal determinations about their status. Focusing again on Greece we observe the lack of skills of the reception (police and army) officers with regards to the special treatment required towards vulnerable groups, the lack of specialist psychologists in the reception centres and camps, the inadequate infrastructure in terms of children shelters. According to the National Solidarity Centre in 2015, 2248 unaccompanied minors are placed in reception centres or they have been relocated to another European country. Although, only since the beginning of the year 1.150 unaccompanied minors have been reported. As expected Greece does not have the capacity and the appropriate shelters available to host properly and provide the special care required to those children with the consequence of centres overpopulation and inappropriate stay at policy stations<sup>14</sup>. However, the rest of the minors are staying in the detention centres with their parents or in the extemporaneous camps across the mainland.

The resources that are not properly allocated, together with the border closure have created an extreme situation within the Greek society. The recent law 4375/2016, which was ratified without following the standard public consultation deadline, is hardly addressing the problem because it defines the new Asylum Service and procedures in a way that constitutes a direct violation

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of the European and International provisions. More specifically, an asylum application can be lodged before a police officer and not only by the personnel of the Asylum Service<sup>15</sup>, the legislator has not prohibited the detention of unaccompanied children<sup>16</sup>, the legal aid of the asylum seekers is not guaranteed and the reception centres can be converted to detention centres with a decision from the Police Chief<sup>17</sup>.

If Europe fails on the question of refugees, if this close link with universal civil rights is broken, then it won't be the Europe we wished for<sup>18</sup>. Concluding, with regards to the supranational governance on the migration area and the role of democratic Europe it should be once more pointed out that it lacks uniform and vertical implementation to the ground base; namely the European citizens.

#### “THE SUPPLIANTS”

It can be said, that this moment in history Europe failed to “welcome” all the third country nationals, who seek international protection. To point a question to your people whether an asylum seeker is welcome to the city is a question that Aeschylus in his most archaic tragedy named *The Suppliants* has dealt with in 470 BC. What is the relation of Aeschylus with regards to today's European Union? Are there any similarities between *The Suppliants* and today's refugees?

The strongest defender of the refugee crisis along with the common values of western civilization is an ancient tragedian playwright (a European Poet by today's modern accounts) and author of amongst some of oldest theatrical works, Aeschylus. In his play, the tragedy called *The Suppliants* he narrates the tale of the fifty daughters (maidens) of the Egyptian king Danaus, who escaped from Africa to Greece together with their father in order to avoid having to marry their fifty cousins and commit in the eyes of God the crime of incest. In principle, ancient Greeks granted asylum to those who took refuge in a temple or sacred precinct and called upon the gods for protection. In order to do so *The Suppliants* had to be officially accepted as such for the divine safety net to be granted by the city's officials. The play begins with the

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words of the chorus who are *The Suppliants* themselves pleading for asylum.

Zeus! Lord and guard of suppliant hands  
 Look down benign on us who crave  
 Thine aid-whom winds and waters drave  
 From where, through drifting shifting sands,  
 Pours Nilus to the wave.  
 From where the green land, god-possest,  
 Closes and fronts the Syrian waste,  
 We flee as exiles, yet unbanned  
 By murder's sentence from our land;  
 But-since Aegyptus had decreed  
 His sons should wed his brother's seed,-  
 Ourselves we tore from bonds abhorred,  
 From wedlock not of heart but hand,  
 Nor brooked to call a kinsman lord!  
 Zeus with a touch, a mystic breath,  
 Made mother of our name<sup>19</sup>.

The plot of the ancient tragedy and the current situation share the same scenery: the reception of the ship and its symbolic value as a national imagery (although it was ship then and a vessel today). The similarity with the current conditions is more obvious than ever. In both cases people are coming through the Aegean Sea. Greece then, as now, was an entry point for those fleeing oppression from the other side of the Mediterranean. Their home is the same too, the Middle East. Host country Argos-Greece, then. Greece, Europe now. In both cases we are dealing with desperate people seeking for protection.

In other words, Greece – the most south-easterly corner of the European Union – operates like a cast or as the gateway to a humanitarian disaster, not only in the imaginary but in reality too. It witnesses the regular arrival of vessels full of displaced passengers, each risking everything on the short but hazardous passage from the Turkish shore to the supposedly safe havens. The asylum seekers are mourning exactly as their ancestors<sup>20</sup>.

Further, the “asylum seekers of today” are threatening to take their lives with their own hands (e.g., hunger strike, suicide, etc.) if they don't succeed in crossing the borders to central Europe, like exactly the “Suppliers” threatened the king of Argos<sup>21</sup>. In *The Suppliants* play, we notice the tradition of hospitality and a religious obligation towards strangers. Both of these play an im-

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portant role in the ancient Greek culture and that is why the Suppliant maidens are praying to the gods for a shelter<sup>22</sup>. Although nowadays, the Greek hospitality of all the volunteers is exemplary, the lack of sheltering infrastructure, coordination and qualified staff darken the image of “Greek hospitality”.

However, Pelasgus, king of Argos, is confronted with a stark dilemma: If he grants sanctuary to the 50 women who have fled with their father, Danaus, from Egypt to avoid a forced marriage with their cousins, Argos faces inevitable war with these spurned men. But if he doesn’t protect the Danaids, he neglects a religious commandment and risks the retribution of the gods. The maidens inform Pelasgus that, though their appearance may seem foreign, Argive bloods runs through them through their relation to poor, gadfly-tormented Io. Pelasgus questions the women’s claim to sanctuary, essentially attempting to uncover whether they are truly refugees escaping persecution or migrants travelling on their own volition. When Pelasgus found out that Danaids had no legal ground for rejecting their cousins’ marriage proposal, the king decides to take the matter to the public: “So never may people say, if evil comes... Respecting aliens the city you destroyed”.

In a sung exchange that keys up higher and higher, the Suppliants and their father make their case for asylum, gradually persuading gruff Pelasgos and his subjects – who, as he insists, are the real rulers of the state. This line has great political significance not only in the 460s BC but also now.

#### CHORUS

Antistrophe 1: Justice, the daughter of right-dealing Zeus,  
Justice, the queen of suppliants, look down,  
That this our plight no ill may loose  
Upon your town!  
This word, even from the young, let age and wisdom learn:  
If thou to suppliants show grace,  
Thou shalt not lack Heaven’s grace in turn,  
So long as virtue’s gifts on heavenly shrines have place.

THE KING OF ARGOS: Not at my private hearth ye sit and sue;  
And if the city bear a common stain,  
Be it the common toil to cleanse the same:  
Therefore no pledge, no promise will I give,  
Ere counsel with the commonwealth be held.

CHORUS strophe 2: Nay, but the source of sway, the city's self, art thou,  
 A power unjudged! thine, only thine,  
 To rule the right of hearth and shrine!  
 Before thy throne and sceptre all men bow!  
 Thou, in all causes lord, beware the curse divine!

THE KING OF ARGOS: Hard is the cause-make me not judge thereof.  
 Already I have vowed it, to do nought  
 Save after counsel with my people ta'en,  
 King though I be; that ne'er in after time,  
 If ill fate chance, my people then may say-  
 In aid of strangers thou the State hast slain<sup>23</sup>.

Fearing that Pelasgus will waver, the Danaids tell him that if they are denied asylum they will hang themselves from the altars, their blood will pollute the land that did not take up their cause. The King knows that “the wrath of Zeus the Suppliant – The height of mortal fear – must be respected”, and, he decides to bring his case to the assembly, praying that “Persuasion and Fortune attend” him. Finally the Argive citizens decide to grant the sanctuary request, placing their city in jeopardy to uphold a sacred value. The assembly, the people of Greece decided to grant asylum to Danaides<sup>24</sup>. It is the moment when the king of Argos, Pelasgos, turns to the Danaids and Danaos, telling them that they are free in the city of Argos and that he with his sovereign people, were the guarantors of their freedom. He also stresses out how hospitable his people are and invites the Suppliants into the city, telling them that “Our houses are yours, and not the smallest ones”. You are free to choose<sup>25</sup>.

*The Suppliants* is a conspicuously international play, but one that complicates national identities and patriotic allegiances. The plot line has been with us from the start of our dramatic tradition, and the terrible conflicts it exposes cannot be wished away. Reading *The Suppliants* today reminds us that how we respond to those seeking our aid when in grave distress. It determines something fundamental about our humanity and above all responsibility cannot be shirked even if the political and the economic stake is high. This play is worth revisiting for the way it provides historical depth on the refugee crisis, framing the basic dramatic situation of its asylum seekers in moral, democratic and religious terms. Could it be a legal binding precedent regarding the participation of the public in the final decision?



## JUSTICE MECHANISMS: REFUGEES AND CITIZENS UNDER THE SCOPE OF U. BECK AND H. ARENDT

Although the aforementioned ancient tragedy, *The Suppliants*, clearly correlates persecution, flight and the lawful state's obligations towards citizens and fugitives with the issue of democracy, human rights and asylum, it still remains and retains therein, a narrative no less, about the god Zeus. A god, neither a politician nor an advisor, dominates the whole plot. God also symbolises universal values, eternal Law and the pure essence of justice, something deeper than the resolutions of an international organization. Aeschylus, though, makes sure that god's (universal) will in tandem with the necessary human will, through certain democratic mechanisms, is being harmonised.

Why do we believe in the existence of these universal truths, like justice or basic human rights? According to the *Declaration of the Rights of Man and of the Citizen* (*Déclaration des droits de l'homme et du citoyen*), passed by France's National Constituent Assembly in August 1789, our inalienable human rights were given to us by our "Creator", given to us by God's Nature. Another view supports that human beings have inalienable *natural* rights. Although we can rely on Kant's concept, namely that the rights of humanity are grounded in our capacity for rational deliberation. Therefore, from one perspective the application of human rights and justice seem to be metaphysical or even post metaphysical, whilst on the other hand based on John Rawls' dominant formulation, justice is famously "political, not metaphysical": "without the theory of justice there is no theory of the state" (Rawls 1971). Since World War II, there have been extensive efforts to align State Law, justice, and human rights with contemporary refugee movements<sup>26</sup>. Due to the classical trisection "state, people and state-country", legal issues concerning groups of people or populations such as political refugees, asylum seekers, and the so called economic migrants, who are waiting to acquire citizenship, were and continue to be very difficult to tackle. Modern political thinkers speak of the state as an instrument that defends the *interests* of its *citizens*, but nowadays the state must be seen firstly as the state within the supra-governmental European Union and especially, secondly it must be judged in light of its role to secure justice and universal human rights. Additionally, according to its official nar-

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ratives, the European Union seeks to develop a stronger sense of European identity and citizenship above the level of the nation state while simultaneously is contributing to the “flowering of the local, regional and national cultures and identities below it (Shore 2004). However the invention of European citizenship raises fundamental political questions<sup>27</sup> concerning state formation within EU, as conventionally understood “citizenship’ belongs firmly to the lexical set of nation, state and peoplehood. In this context we should examine legal issues that concern groups of people or populations within EU such as refugees and asylum seekers.

Therefore, it is apt to highlight here, Hanna Arendt’s theory<sup>28</sup> as well as Ulrich’s Beck vision for Cosmopolitan Global Politics, which re-conceives the nature of political existence. Arendt in the chapter “The declining of the nation state and the end of human rights” of *The Origins of Totalitarianism* argues that, the devastation of ordered and stable contexts in which people once lived, led to totalitarian ideologies. The impact of the First World War and the Great Depression led to the prevalence of totalitarian ideologies:

The meaning of the human rights based on the implied existence of a human being itself, has blown to pieces, when those who stated it, for the first time came face to face with people who had really lost every other specific feature and bond besides the simple fact that they were humans (Arendt, Agamben, Traverso 2015).

Arendt stresses the amenability and almost submissive tendency of European populations to totalitarian ideas which was the consequence of a series of pathologies. While human life always evolves within societies, the social-being as part of human nature, and political life, has been intentionally constructed by only a few of these societies as a space for individuals to achieve freedom through the construction of a common world. In other words, the space to express liberty and freedom eroded not only public freedom but also the political realm.

Arendt also believes that the term “refugee” has been transformed, since this word which once resulted in awe, “now gives way to an image of a suspicious and unhappy human being” (Arendt, Agamben, Traverso 2015). To an extent this conception goes hand-in-hand with today’s visual categorization of what constitutes a refugee and perhaps more sinister, what a refugee consti-



tutes. What will it take to reshape our conceptual understanding and coordinate actions towards refugees? In order to answer this question, we need again to resort to Arendt's and Ulrich Beck's theory.

Arendt recognises in human action, the capacity to bring or introduce the new in order to exceed our existing knowledge and limitations, as well as our understanding or judgment. She also believes that precedents and rules cannot help us judge properly what is unprecedented and new. Arendt turns to Kant's and his idea of "reflective judgment". By the term reflective judgment, Kant meant the judgment of a particular event for which no rule or precedent exists, but for which some judgment *must* nevertheless be arrived at, because not only does reflective judgment proceed from a particular event with which it is confronted, but also there is an inevitable universalizing moment. Kant requires us to judge from this common standpoint, on the basis of what we share with all others and by setting aside our own egocentric and private concerns or interests. Arendt places great weight upon this notion which "thinks from the standpoint of everyone else". This "broadened way of thinking" or "enlarged mentality" enables us to "compare our judgment not so much with the actual but rather with the possible judgment of others, and [thus] render ourselves in the position of everybody else. Through such a process of engagement, particular acts of judgment claim public validity.

Moreover, Ulrich Beck, argues that because of the globalization of politics, economics, law, culture and communication and their converse relationship with the globalization of risks, there is no other feasible way forward other than, an awakening of public opinion and opinion makers towards an inevitable and consequential further engagement in politics. Therefore, according to Beck (Beck 2006), the era of "reflexive modernity", demands by its very nature a structural transformation in our living practices, customs & behaviour, policy making etc. It demands that all the world & European citizens have a new standpoint, or in other words the cosmopolitan outlook (Beck 2006: 3). By this so called "cosmopolitan outlook" Beck means and in a global context "a sense of boundarylessness", i.e. 'lack of boundaries'. An everyday, historically alert, reflexive awareness of ambivalences in a milieu of blurring differentiations and cultural contradictions. It reveals not just the "anguish" but also the possibility of shaping one's life

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and social relations under conditions of cultural mixture. It is simultaneously a skeptical, disillusioned, self-critical look” (Beck 2006: 3).

Furthermore, Beck like Arendt but from another starting-point purports that by putting ourselves in the shoes of others we understand the interconnections of today’s world and this could be a boost for action. He argues, that for example “imaginary pity” plays a key role in the development of western humanism. It is because of pity and compassion, when one becomes present in the other’s feelings and experiences, then he can see that the boundaries separating us from others are no longer blocked and obscured neither by ontological nor by actual differences. Hence this “cosmopolitan pity”, the sense of awareness, solidarity and justice we are forced to act (Beck 2006: 6).

At this point is highly instructive to have a backward glance at the origins of European formation. Europe was formed under the vision of cosmopolitanism. In European history there is a continuity of the cosmopolitan ideal since the ancient Greek philosophy of the stoics. Firstly, there was “ancient cosmopolitanism” where the “cosmopolis” or human rights (concept of cosmos and polis) represents the “higher principle”. Then we can observe Kant’s theory of a world citizenship, which goes hand in hand with his theory of the creation of “ius cosmopolitan” in and beyond state and international law<sup>29</sup>. Cosmopolitanism’ means – as Immanuel Kant argued 200 years ago – being a citizen of two worlds, a citizen of “cosmos” and “polis”. This is underpinned later by Beck, who supports that “the national perspective is a monological imagination, which excludes the “otherness” of “the other”. The cosmopolitan perspective is an alternative imagination, an imagination of alternative ways of life and rationalities, which include the otherness of the other. It puts the negotiation of contradictory cultural experiences into the centre of activities: in the political, the economic, the scientific and the social.

However, based on the concept of “globality” (Albrow 1996; Robertson 1992) cosmopolitanism means: rooted cosmopolitanism, having “roots” and “wings” at the same time. The dominant opposition between cosmopolitans and locals is rejected: there is no cosmopolitanism without localism. All this, according to Beck, call for a “world citizenry” (Kant), despite the lack of governance in the world at large; and with time, there must be invented a

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“cosmopolitan state”, founded upon the otherness of the other (Beck 2002).

Furthermore, Beck pays a great significance upon the rule of law as the only true opponent to the rule of force and ruse – in order to form cosmopolitan societies, we are looking for. He argues that the rule of law is not static, especially in today’s world of reflexive modernization. There has to be a fundamental sense of the principles, the cosmopolitan memory and norms to be expressed through the law – and observed even without law – so there can be a shared confidence, an ethos against the global norms that are being institutionalised (Beck 2002).

Hannah Arendt on the other hand, shares similar viewpoints when she argues about political reconciliation and forgiveness of guilt. Taking the Holocaust as her starting point to the breakdown of civilization, Hannah Arendt emphasises the political aspect of responsibility and argues that every aspect becomes entangled with the irreversibility of its effects. This is why with respect to the crimes against humanity, we should become empowered to fight for the promotion of political cosmopolitanism.

On a different approach, Beck states that “the human rights regime is the key example of how the distinction between the national and the international is being superseded and the internal “cosmopolitanisation” of national societies is being promoted” (Beck 2006: 47). But exactly therein lies a great danger because their true respect is in reality a very complex procedure. Moreover, the violation of human rights and the need to protect them can be faced as a chance for the world and Europe to re-conceptualise and possibly even re-design and re-align its regulations and treaties resorting ultimately to efficient legislation and participatory democracy. Failure to do so and especially failure to enact representative legislation, which will protect the plight of such people will inevitably, and is already doing so in a multifaceted way too, render an excuse for the “legitimation” of extremist, and more dangerously so, as fascist politics coming into the mainstream political arena. Cosmopolitan Europe is a Europe which is now struggling morally, politically, economically and historically for reconciliation, while the current state of European Union merits criticism<sup>30</sup>. It is unethical to champion human rights on the one hand and to violate human rights of certain people (Muslims, refugees, the vulnerable groups etc.) on the other. Re-



specting others in their differences and helping them in their hour of need means “acknowledging them as members of the same human species not of some other inferior human-like species or as second class citizens” (Beck 2006: 53).

Realistic cosmopolitanism pre-supposes a universal minimum in both ethics and politics as well as in the regulations and possible treaties that need to be applied; last but not least, public awareness and behaviour too. Beck says that “we can speak of cosmopolitan common sense when we have good reason to believe that a majority of human beings would be willing to defend these minimum universalist norms wherever they have force, if called upon to do so”.

Europe had in the past and has to a great extent in subsequent years, already taken a great step (there is still a long way to go though) towards the institutionalisation of cosmopolitanism. The common market, the creation of a common currency, the common policy making in domestic and foreign affairs, the European legal system and the actual implementation of the treaties were not confined to the level of the nation state, but in a supranational level, where it would be possible to forge such a “cosmopolitan look”.

## CONCLUSIONS

The very recent and indeed very unfortunate EU practice and the omissions regarding the refugee crisis not only constitute a significant breach on the democratic continuity towards a greater and all-encompassing cosmopolitan vision, but also equate to a breach of international law. The EU seems to be paralyzed, instead of going forward, it is moving backwards, when “disagreements, blame games, deepening crisis of the legitimacy of European institutions” emerge. “By choosing to sidestep the customary consensus-based decision-making system, especially on such a difficult issue, Brussels catalysed a firestorm of reactions – particularly among Eastern Member States – widening a schism that goes to the very heart of the trust that Member States and the European Commission must maintain if they are to reach agreement on longer-term solutions on this and other difficult issues” (Papademetriou 2015). It seems that political decisions are relin-

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quishing control to a supra-federal level of power centres with agglomerated wealth.

The vision as seen by many citizens across Europe today is in line with a new and rotten Europe that is intentionally overriding and ignoring law, legality, civil rights, contradicting the political will of people as expressed through the democratic process, elections and everyday life<sup>31</sup>. It is governed by corporation style management with a focus on harsh austerity and social exclusion hence creating swathes of unemployed and increasing poverty at an alarming rate throughout the continent<sup>32</sup>. This is definitely not the EU that was envisaged and this is definitely not the Europe that would tolerate a mass influx of refugees. Therefore, Europe needs to find its way out of deep-lying crises by developing a model of cosmopolitan solidarity, which is built upon the transnational extension and further development of moral integration within the nation state (Strydom 2012). Cosmopolitanism as a morally shaped cultural model is required that can do justice to real social plurality as it exists in contemporary Europe. Such a cultural model must be accompanied by constitutionalisation in a double sense, as the meaningful extension of rights to new domains, i.e. social and environmental rights, and as the extension of democratisation on the transnational level (O’Mahony 2014).

Every European needs to understand that Europe as a vision can only be truly realised only via a conduit of cosmopolitan unity and through the acceptance, recognition and reconciliation of many national and regional histories and narratives. The embedding of European citizens in the drafting, presentation and implementation of European legislation and their lifelong education in accordance with eternal European values of humanity is of great priority. In other words, the remote ideals of EU and institutions should come closer to people of Europe in order for the EU to be an effective democratic union. Cosmopolitan Europe does not mean the extinction, deportation and violation of the rights of immigrants, refugees and of human beings; much in the same way as the peace agreed in Westphalia did not mean the extirpation of different religions. “On the contrary, it ensured that the principal of national, cultural, ethnic and religious toleration are institutionally anchored, preserved and guaranteed” (Beck 2006: 76). After all, according to Beck, “only a non-anthropological, anti-ontological, radically open and in other words a politically prag-

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matic, image of humanity and culture deserves the label ‘European’” (Beck 2006: 176).

However, it should be once more pointed out that the long term goal of Europe – if it wishes to benefit from the refugees that will stay in its soil – is an efficient multi-disciplinary integration. It is of great significance to apply this knowledge to today’s Europe, to today’s governance and to embody this very philosophy into our everyday lives and actions.

#### NOTES

<sup>1</sup> World Bank 2011 World Development Report 2011: Conflict, Security and development. Available at <http://go.worldbank.org/UCTHLNS530> [Last accessed 5 February 2013].

<sup>2</sup> “New Wars are the wars of the era of globalisation. Typically, they take place in areas where authoritarian states have been greatly weakened as a consequence of opening up to the rest of the world. In such contexts, the distinction between state and non-state, public and private, external and internal, economic and political, and even war and peace are breaking down. Moreover, the breakdown of these binary distinctions is both a cause and a consequence of violence” (Caldor 2013).

<sup>3</sup> “...promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”, and member states pledge to undertake “joint and separate action” to protect these rights” (United Nations Charter: Chapter IX. United Nations. Retrieved 18 November 2013).

<sup>4</sup> UK’s view on the 1951 Convention illustrates the actual approach on the agreement: “The UK has a great deal of difficulty with the 1951 Convention. In 1951 no-one anticipated that the process of refugee determination would become institutionalised. It was not foreseen that there would be a requirement of due process by virtue of which the claimant would have a right, expectation or entitlement to advice and legal representation. Further, decision makers would be required to understand the situation in the claimant’s country of origin and to come up with a reasoned decision which applied the law to the facts and made a determination on, amongst other things, the individual’s credibility. That is something which has clearly changed. The drafters of the 1951 Convention did not consider that decision-making would be anything but discretionary by an enlightened administration but without their being hampered by the requirements of due process as we understand them” (Chatam House, *The Refugee Convention: Why not scrap it?*).

<sup>5</sup> Towards a Comprehensive European Migration Policy: 20 years of EU Action, as of 4.3.2015: [http://europa.eu/rapid/press-release\\_MEMO-15-4544\\_en.htm](http://europa.eu/rapid/press-release_MEMO-15-4544_en.htm)

<sup>6</sup> The Common European Asylum System (CEAS) entails also the European Asylum Support Office (Regulation 439/2010) in order to provide adequate support to the relevant services of the Member States responsible for implementing this Regulation. In particular, EASO should provide solidarity measures, such as the Asylum Intervention Pool with asylum support teams, to assist those Member States which are faced with particular pressure and where applicants for international protection (“applicants”) cannot benefit from adequate standards, in particular as regards reception and protection. Relocation is a further solidarity tool aimed at transferring recognized refugees from overburdened Member States, while the Temporary Protection Directive is an exceptional measure to provide displaced persons, with immediate and temporary protection in situations of mass influx. The Common European Asylum System also relies on instruments and tools which operate in



the external dimension, notably Resettlement: which offers protection seekers an opportunity to reach the EU in a safe and orderly manner, and Regional Development and Protection Programmes: which aim at strengthening protection capacities of partner countries.

<sup>7</sup> A common area of protection and solidarity was introduced, in accordance with Article 78 of the Treaty on the Functioning of the European Union (TFEU): “1. The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties... 3. In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament”.

<sup>8</sup> “The EURODAC an EU-wide database of asylum-seekers’ and irregular migrants’ fingerprints, contains information on three “categories” of person: Category 1: applicants for international protection; Category 2: persons apprehended crossing a border irregularly; Category 3: persons found illegally present in a Member State”, Fingerprinting by force: secret discussions on “systematic identification” of migrants and asylum seekers, Including “fingerprinting [with] the use of a proportionate degree of coercion” on “vulnerable persons, such as minors or pregnant women, Statewatch on 10.3.2015; “The revised Regulation as of 2015 extends the data storage of asylum seekers to 10 years and data of the “illegals” from 2 years to 1.5 and gives access not only to immigration authorities but also to Europol and public prosecutors. The stigmatization and assimilation of asylum seekers with criminals is a violation of the human and the data protection rights”, Eurodac fingerprint database under fire by human rights activists, A. Dernbach on 15.7.2015; <http://www.euractiv.com/section/justice-home-affairs/news/eurodac-fingerprint-database-under-fire-by-human-rights-activists>.

<sup>9</sup> Communication from the Commission to the European Parliament and the Council, Stronger and Smarter Information Systems for Borders and Security, COM(2016) 205 final.

<sup>10</sup> “Information-exchange framework designed to improve the management of Europe’s external borders. It aims to support Member States by increasing their situational awareness and reaction capability in combating cross-border crime, tackling irregular migration and preventing loss of migrant lives at sea. The backbone of Eurosur is a network of National Coordination Centres (NCCs); <http://frontex.europa.eu/intelligence/eurosur/>

<sup>11</sup> “Almost every corner of Europe felt it was saddled with a disproportionate burden: from frontline states such as Italy and Greece (and later, countries along the Western Balkan route) that were overwhelmed by immediate arrivals, to wealthier nations such as Germany and Sweden that found themselves responsible for massively disproportionate intakes of refugees, to Central and Eastern European states with scant histories of immigration that faced the prospect of integrating Muslim refugees for the first time. The gulf between Member States had never seemed wider” (Papademetriou 2015).

<sup>12</sup> I.e. *Handbook on European law relating to asylum, borders and immigration*, European Union Agency for fundamental rights: <http://fra.europa.eu/en/publication/2013/handbook-european-law-relating-asylum-borders-and-immigration>; *Protecting Migrants Under the European Convention on Human Rights and the European Social Charter*, Council of Europe, 2013: [http://www.coe.int/t/democracy/migration/Source/migration/ProtectingMigrantsECHR\\_ESCWeb.pdf](http://www.coe.int/t/democracy/migration/Source/migration/ProtectingMigrantsECHR_ESCWeb.pdf)

<sup>13</sup> <http://www.theguardian.com/world/2016/jan/30/fears-for-missing-child-refugees>

<sup>14</sup> Greek Ombudsman statement on 30.3.2016: <http://www.synigoros.gr/resources/dt-asynodeytoi-anilikoi-3032016.pdf>

<sup>15</sup> Case M.S.S. vs. Belgium and Greece, ECHR 30696/09, 21/1/2011.



<sup>16</sup> Convention on the Rights of the child; CRC Committee, General Comment No. 6 (2005), The Treatment of Unaccompanied and Separated Children Outside their Country of Origin, UN Doc. CRC/GC/2005/6, 1 September 2005, par. 61

<sup>17</sup> Greek Refugee Council, Comments on the Law 4375/2016: <http://www.gcr.gr/index.php/el/news/press-releases-announcements/item/551-oi-paratiriseis-tou-esp-epi-tou-nomou-4375-2016>.

<sup>18</sup> Angela Merkel Calls for European Unity to Address Migrant Influx, New York Times as of 31.8.2015: [http://www.nytimes.com/2015/09/01/world/europe/germany-migrants-merkel.html?\\_r=0](http://www.nytimes.com/2015/09/01/world/europe/germany-migrants-merkel.html?_r=0)

<sup>19</sup> The Suppliants by Aeschylus: <http://classics.mit.edu/Aeschylus/suppliant.html>

<sup>20</sup> “Like her I wail and wail in soft Ionian tones, and as she wastes, even so wastes my soft cheek, once ripe with Nilus’ suns. And all my heart dissolves in utter woe, Sad Flowers of grief I cull. Fleeing from Kinsmen’s love unmerciful –Yea, from the clutching hands, the wanton creed, I sped across the waves, from Egypt land of cloud”.

<sup>21</sup> [strophe (verse)] 8 “Yet if this may not be, We, the dark race sun-smitten, we Will speed with suppliant wands To Zeus who rules below, with hospitable hands Who welcomes all the dead from all the lands: Yea, by our own hands strangled, we will go, Spurned by Olympian gods, unto the gods below!”.

<sup>22</sup> Antistrophe 7: “To grant that I too without stain The shelter of thy purity may gain!”.

<sup>23</sup> [Http://classics.mit.edu/Aeschylus/suppliant.html](http://classics.mit.edu/Aeschylus/suppliant.html)

<sup>24</sup> “DANAUS: With one assent the Argives sake their will, And, hearing, my old heart took youthful cheer. The very sky was thrilled when high in air, The concourse raised right hands and swore their oath: Free shall the maidens sojourn in this land. Unhurried, unspoiled by mortal weight. A ruthless monster, fed on human doom. Such things the Argive people heard, and straight, Without proclaim of herald, gave assent: Yea, in full conclave, the Pelasgian folk Heard persuasive pleas, and Zeus through them resolved” (<http://classics.mit.edu/Aeschylus/suppliant.html>).

<sup>25</sup> “Guests: But ye, O maids, with our attendants true, Pass hence with trust into the fenced town, Ringed with a wide confine of guarding towers. Therein are many dwellings for such” (<http://classics.mit.edu/Aeschylus/suppliant.html>).

<sup>26</sup> “When groups migrate, they recombine in new settings, they reconstruct their histories and their ethnic concepts. In this way, the ethnic in the group context is endowed with a non-localised, harder to define quality, which ethnographic praxis needs to tune into...” (Binder and Tosic 2005).

<sup>27</sup> “Conventional wisdom holds that the EU is not a state, even though it has increasingly acquired many of the functions and trapping of one. Instead it is defined as an unfinished project, an evolving entity or network of networks” (Shore).

<sup>28</sup> [Http://www.iep.utm.edu/arendt/Arendt](http://www.iep.utm.edu/arendt/Arendt)

<sup>29</sup> “When the constitution in every state is republican and when the international law of free states has a federal form, then a third domain of right, the right to hospitality, can be added to them” (Beck 2006: 46).

<sup>30</sup> “In the Migration Apparatus, political Anthropologist Gregory Feldman goes a step further by turning the spotlight onto the migration mechanisms of the EU itself in order to understand how they work within the global political and economy order (...) he is also concerned with modernity’s destruction of direct social connections. His book explores the functioning of apparatus in which there are no connections between the thousands who implement EU policies or between these officials and those they police” (Feldman 2012).

<sup>31</sup> “In Lesbos island there were a strong and active civil society network engaged in supporting and caring for undocumented border crossers” (Trubeta 2015).

<sup>32</sup> J. Habermas addressed the question of how to overcome the existing crisis of European integration. According to Habermas, this crisis is a result of “mutual distrust”. European citizens “lack any sense of mutual political belonging... and the member states are as far away as ever from pursuing a common project” (Habermas 2006: 84).

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