

Sticks, not carrots: Immigration and rights in Greece and Turkey

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Abstract

This piece critically examines migration policies in Greece and Turkey with an emphasis on the Greek experience. It examines four thematic areas which shape the migration debates: social change, citizenship, rights, and sovereignty. It then turns to the case law of the European Court of Human Rights (ECtHR) to assess the main challenges associated with migrants' rights: free trial, deprivation of liberty, and conditions and procedures of detention and extradition. Honing in upon the case of Muslim migrants in Greece, it charts patterns of solidarity and exclusion. Exploring the impact of the Greek crisis on immigration, it highlights the securitisation of public discourse on migrants and the rise of xenophobic political factions. The article concludes by suggesting that there are underexplored areas in which Greece and Turkey could cooperate when it comes to immigration and ensuring migrants' rights.

Key words: immigration, human rights, citizenship, sovereignty, European Court of Human Rights (ECtHR), detention/extradition, Muslim migrants, xenophobia

1. Introduction

Debates in Greece - and to some extent in Turkey - tend to characterize immigration as an economic and social burden. This ignores the fact that immigration is a complex and fluid phenomenon closely connected to the past and present of both societies. It provides, among other things, impetus to social and economic change, not least as migrants' children contribute to the transformation of 'host' societies in complex and important ways. This article emanates from the normative contention that by discounting the contribution of migrants to their adopted societies we insist upon a static understanding of what it means to be or become a 'Greek' or 'Turkish' citizen, one which neglects the lived realities that characterize societal developments in both rapidly changing contexts.

A prime source of reified understandings of membership to the national community is the widely held view that the law is a rigid and irreducible entity rather than a living, multi-faceted space and tool for negotiating who is 'us' and who is 'them'. Critics of neo-liberalism in particular suggest that restructuring in accordance with its precepts renders migrants and immigrants vulnerable, pushing them to perform distinct and often undervalued economic roles and into subordinate labour market situations (see, for example, Bauder 2006). In such contexts, law plays a crucial role in shaping processes of inclusion and exclusion, either enabling or leading to the obstruction of human rights and serving as a measure of a polity's receptiveness to difference and change. This article will discuss aspects of migration and rights that mark the Greek and Turkish legal order with an eye to better understanding the political opportunities and challenges that immigration poses for each of the national establishments as well as highlight common areas in which they could collaborate. Drawing on the author's activist and legal background, the focus will be on relevant case law of the European Court of Human Rights (ECtHR). As debates over immigration are more salient in Greece - where migrants represent 10 per cent of the overall population - than they are in Turkey, analysis will be focused mostly on the Greek case. However, it will also point to the many similarities which link the two countries in terms of the profiles of their migrant communities and the regimes that govern their treatment.

2. Aspects of migration: Change, citizenship, rights, and sovereignty

At least four outstanding dimensions of the immigration debates in the two countries will be canvassed in this section. This will set the stage for a discussion of the Greek and to a lesser extent the Turkish cases as well as a comparative outlook on the challenges and opportunities faced with regard to immigration and rights¹.

Change – Over the past two decades, patterns of migration in both Greece and Turkey have been changing in tandem with the transformations underway in both societies. These changes are notable in fields like the economy and demography, as well as in

shifting understandings of the national self. In effect, the ethnic (Muslim or Christian) 'Other' of which Greece and Turkey were purportedly 'cleansed' some 80 years ago through the population exchange of 1923 has returned via migration. Christian immigrants to Turkey and Muslim immigrants to Greece are slowly altering demographics², and calling into question the clear-cut identities prescribed by the early nation-building projects. Thus, much to the chagrin of old-school nationalists in both countries, conceptions of ethnic alterity or difference are changing both qualitatively and quantitatively as migrant communities become more visible. In other words, today's immigrants are tomorrow's minorities, and they represent a challenge to narratives of nationhood and national history that have dominated to date.

Citizenship – The legal status of citizens evolves at a somewhat different pace than social processes. At the same time, most legal frameworks display some ambivalence as to who qualifies for membership to the nation and whether this is tantamount (or not) to citizenship. In Greece, for example, ethnicized notions of national belonging tend to be privileged over a more civic conception of citizenship (Traindafyllidou and Veikou 2002), while in Turkey a subtext of ethnically defined national belonging often prevails (Fisher Onar and Ozgunes 2009). Concepts like 'blood ties', and 'origin' - said to be rooted in the language one speaks and the religion one practices - have fuelled resistance to more inclusive notions of citizenship based on *jus soli* norms. One reason for this is that the two countries' legal orders tend to envisage immigrants as alien elements to the polity and thus restrict their formal inclusion. This defensive posture ignores the fact that migrants are people who have uprooted their lives to re-establish themselves in new contexts. Authorities often fail to recognize that this means they have strong economic and social connections and aspirations associated with the territory and communities in which they are remaking their lives. Even when there is some recognition of this formally, resistance at the level of implementation can render progress ephemeral, as arguably has been the case with the new Greek citizenship law passed in 2010 (Law 3838) that identified pathways for enhancing immigrant's political participation and social inclusion but which piqued strong reactions. Ultimately, the High Administrative Court (*Symvoulío tis Epikrateias*) reviewed the act and removed the right of alien

children to acquire Greek citizenship by birth or after attending school for at least six years as had been stipulated in the original provisions of the law (decision not yet published).

Human rights – At the nexus of change and law are the migrants themselves. In general, immigrants are a vulnerable group because they tend to fall into the lowest economic strata in both Greece and Turkey. This is heightened by the fact that they belong more broadly to the category of non-citizens, and thus do not have access to a series of rights such as freedom of movement, political rights and, above all, the right to reside and work. That said, they possess the full spectrum of fundamental civil rights. This means that immigrants have a double profile in that they are entitled to the full canon of universal rights even as they are unable to enjoy the boons of citizenship. That this situation can create problems is evident in the lack of incentive for mainstream political actors to speak out against acts or policies which might undermine migrants' universal rights because these residents – who are not yet naturalized - do not yet make up a constituency. Areas in which violations of the rights of migrants and asylum-seekers occur often have to do with political asylum, expulsion, and conditions of detention in special 'reception centres'. It also should be underscored that in Greece and Turkey conditions of incarceration are often poor, and a number of abusive practices have been documented in judgements delivered by the European Court of Human Rights (see below). That said, one notable difference between the two countries is that in Greece, international and domestic watchdog groups are able to visit detention centres³ and hold the authorities accountable whereas in Turkey such access may be denied.

Sovereignty – Last but not least, in both countries, the logic of *raison d'état* tends to prevail when it comes to policies regarding migration⁴. Both states exercise unconditional discretion in regulating migrant flows. While this is an indisputable right of all states, it should not amount to a *carte blanche* in the treatment of migrants. Hence, it is worth reviewing a number of practices. For example, long term detention of undocumented migrants without explanation constitutes a *contra legem* practice, as deportation is not feasible. The operation *Xenios Dias* (Hospitable Zeus [sic]) conducted by the police for

the apprehension, detention and deportation of undocumented migrants ignored fundamental norms about conditions of incarceration. Also pertinent to this discussion is the 12 km fence that the Greek government finally built along the land border of the Evros/Meriç river. The fence can be interpreted through the prism of a growing literature on the nexus of globalization, migration, and sovereignty which examines the ways walls and barriers serve as bastions of Westphalian conceptions of the nation (Brown 2010; Rosiere and Jones 2012). According to this approach, the fence falls within the symbolic sphere of sovereignty, a material expression of the view that the state can and should control the frontiers of the nation and 'Europe' to the detriment of unwanted foreigners. Yet, the European Commission refused to grant financial aid (from the Fund for External Borders) for the construction of the fence on the grounds that the structure would not, in and of itself, offer a solution to the problem of illegal migration in the region.⁵ Indeed, the fence built in late 2013 covers only about 10 per cent of the Greek-Turkish land border, while there are many other entry points (mainly by sea). This suggests that the measure is not pragmatic but rather addressed to a xenophobic audience in Greece, a reading attested to by statistics documenting migration in the vicinity of the wall which reveal that since the winter of 2011 it has been used less frequently for the simple reason that the 'facilitators' or 'traffickers' of migrants now opt for less well patrolled crossing spots along the river or Aegean sea routes.⁶

At a higher level of abstraction, sovereignty is an arena in which we can observe what could be called the fallacies of extreme inclusiveness and exclusiveness. The former entails the view that free movement should always be possible and is implicitly or explicitly hostile to the idea of borders existing anywhere at all. The latter reflects the belief that it is possible and desirable for states to close off the borders of their territory and polity (Anderson 2002). Both approaches tend to be steeped in ideological priors that constitute still further obstacles to sober debate and political compromises towards win-win solutions.

The costs of eschewing such a discussion are considerable in contexts like Greece where immigrants - who are often construed as thieves, rapists, and other criminals - are

vulnerable at times of national hysteria, such as the current financial crisis. General phobia towards immigrants has been rising, particularly in attitudes towards Muslims in Athens where the authorities' reluctance to build a mosque and authorize prayer halls have taken on important dimensions for both the Muslim communities and the xenophobic public discourse. The crisis also has exacerbated on going problems, again especially in Athens, like ghettoization, marginalization, and high levels of criminality among migrants, all of which are contributing to the reframing of migration-related debates in terms of the state's ability to exercise its authority in more or less coercive ways (Christopoulos 2013, 67).

This overview of four core components of the migration debates in Greece and Turkey sets the stage for assessment of the role being played by the European Court of Human Rights.

3. Immigration in Greece: The oversight of the court of Strasbourg

Immigration is a broad issue that poses puzzles and challenges with no obvious solutions. Through their case law, however, both the European Court of Human Rights (ECtHR) in Strasbourg and national courts offer a number of partial answers as to how to manage migration by defining permissible and inappropriate practices. At the same time, human rights groups point out that at least some national-level rulings and procedures tend to display strong ideological positions towards the 'Other' and to embody political resistance towards inclusion which aligns with xenophobic rhetoric against immigrants (Hellenic League for Human Rights 2012). Thus, there is often dissonance between the perspective of the ECtHR and practices in Greece and Turkey. As the following cases adjudicated by the ECtHR suggest, amongst the main issues are practices of detention and expulsion, which, when undertaken without a clear-cut legal purpose and under inadmissible conditions, arguably reflect political and ideological concerns rather than compliance with the fundamental principles of the European legal ethos.

The right to a fair trial, deprivation of liberty, humiliating and inhumane treatment, problems with the extradition process, and assessment of applications for asylum are amongst the most important violations of the European Convention on Human Rights (ECHR) found by the court in Strasbourg in applications lodged by foreigners, immigrants, and asylum applicants against Greece (and to a lesser extent against Turkey). Violation of these principles is often related to shortcomings in the areas of law enforcement, incarceration, and deportation proceedings. Problems are both a cause and a symptom of resistance to ratification of Protocol No. 4 of the ECHR which imposes special obligations on states regarding the collective expulsion of aliens.

A series of judgments delivered by the ECtHR regarding the unlawful residence or entry into Greece by undocumented individuals stand out. The cases involved persons who, after being held for several months under shameful conditions without acceptable accommodation facilities, hygiene, food, and access to open air yards, were released without any provision for their welfare, but also without the possibility of leaving the country. This resulted in confinement in 'detention centres' or police stations while awaiting extradition (*Kaja*, 27 June 2006); such confinement, under the present conditions, is viewed by the ECtHR and other international inspection bodies to comprise inhumane treatment, if not torture.

With regard to asylum, the case of *MSS v. Belgium and Greece* (21 January 2011) is of special importance for European migration policies and is relevant to Turkey as well as Greece since it demonstrated the weakness of the Dublin II Regulation⁷ with regard to the absence of support mechanisms for asylum applicants. Similarly, the *Rahimi* case (5 March 2011) involving an unaccompanied minor seeking asylum called attention to the unacceptable conditions of his and others' detention, as well as the absence of any provision for his welfare following his release.

The story of a young man, referred to as R.T., from Afghanistan is exemplary of the challenges faced by undocumented migrants who enter EU countries and face a series of practical and legal problems challenging the observance of the ECHR by state authorities.

Having crossed the borders from Afghanistan to Turkey, R.T. remained in Istanbul clandestinely for two years where he learned to make fake watches. He then moved to Greece where he continued to work illegally until he was caught by the police and held under very poor conditions for three months. Finally, he was released as his deportation was not feasible within the deadline set by law. The case was adjudicated by the European Court of Human Rights, which found a violation of the ECHR by Greece for illegal deprivation of liberty and inhuman treatment.⁸

Indeed, the majority of cases against Greece in which the ECtHR found in favour of a foreign applicant have dealt with deprivation of the right to a fair trial (*Yilmaz*, 25 November 2010; *Kola*, 2 April 2009; and *Elezi and Others*, 9 July 2009), detention conditions in prison or in police stations (*Kaja*, 27 June 2006; *Shuvaev*, 29 October 2009; *Tabesh*, 26 November 2009; *Mahmundi and Others*, 31 July 2012; *Bygylashvili*, 25 September 2012; *Lin*, 6 November 2012; *Peers*, 19 April 2001; *Gehere*, 5 July 2007; and *Taggatidis*, 11 October 2011), and illegal detention or a combination of the above (*Ahmade*, 25 September 2012) and police violence (*Zelilof*, 24 May 2007; and *Alsayed Allaham*, 18 January 2007).

In Turkey, only a few cases have been reviewed which regard non-citizens, mostly asylum-seekers from Iran. These cases are related to measures taken during deportation and inhuman or degrading treatment (ECHR, Article 3), combined with the right to an effective remedy (ECHR, Article 13). A handful of other cases have involved deportation in which there was deemed to be an infringement of plaintiffs' right to liberty and security as well as protection from arbitrary interference of governments (ECHR, Articles 5.1 and 5.4.).⁹

Despite the challenges, awareness of the difficulties faced by migrants is rising due to reporting by international and non-governmental organizations¹⁰ which increasingly inform public debates on the topic. Also, in Greece, Act 3904/2011 provides for the establishment of open reception centres with clear mission statements and the normalization of the process for awarding asylum. If implemented, such measures would

remedy many problems. To date, however, critics argue that there has been little progress in a climate of indiscriminate anti-immigration sentiment among the public – sentiments that have been exacerbated by many media practices..In this context, and from a human rights perspective, it is important that lawmakers set examples with regard to unconditional respect for human dignity as an indivisible aspect of securing the rights of all persons within the polity regardless of his or her legal status.

4. Humans in limbo: Between asylum and expulsion

In recent years, and in conjunction with the unfolding economic crisis in Greece, discussion of immigration-related issues has changed in both content and style. A series of legislative initiatives (Act 3386/2005 on immigration as amended several times and Act 3907/2011 on political asylum and deportation) have normalized, in theory, the situation of aliens. Yet, as the situation in Greece has become more tenuous for everyone, there has been a growing securitization of perceptions of ‘aliens’, ‘foreigners’, ‘those of another religion’, or ‘those of another descent’ and concomitant resistance to the view that such groups should have a say in the political affairs of the place where they live. The rhetoric of fear has been spreading and propagated with impunity by those who are either wary of change or wish to capitalize on insecurities; such discourses Pavlou (2009) argues, are obscuring crucial aspects of the immigration question such as political participation and economic exploitation

In tandem with the rise of anti-immigrant discourse, the Greek-Turkish border is hardening, a process unfolding under European supervision (Human Rights Watch 2011). This is reinforcing calls for a ‘fortress Europe’ predicated on protecting ‘insiders’ - in military, political, economic, and ideological terms - against potential transgressors. This view of borders, Brown (2012) argues, whitewashes the shortcomings of ‘insiders’ and demonizes ‘outsiders’ who are made to serve as scapegoat for the insiders’ woes. Arguably, the securitization of the ‘Other’ is a function of formal or informal views about the distribution of wealth, social class, and the nature of a national identity. When any of these three phenomena are deemed to be under siege, hostility towards migrants prevails.

Discourses predicated on this logic also propagate fear of migrants in the service of political and economic interests, as attested to by recent and extreme cases of economic exploitation of undocumented immigrant workers in the Peloponnese.

This rather discouraging survey of recent developments in Greece raises the question: Is it possible, at a time of wide-reaching economic and social malaise, to humanize migration policies and border controls? The following observations comprise six starting points for discussion and represent only a handful of themes which could be explored. They have been selected – again from a normative and activist perspective - because they represent fields which demand immediate political and regulatory intervention.

First, aspects of central and local government treatment of immigrants have brought to light a series of shortcomings with regard to accountability, impunity on the part of the authorities for misconduct, and provision of social welfare in Greek policy and society. At the same time, forms of economic exploitation (e.g. extremely low wages paid to undocumented immigrants) and covert or overt interests (e.g. the political exploitation of criminality by depicting the ‘immigrant’ as a potential criminal), together with the silence these factors encourage among immigrants, have found fertile ground within Greek society. The issue of detention in police stations and the five special centres established in late 2012 in the framework of operation ‘*Xenios Dias*’¹¹ is perhaps the most emblematic, since it touches upon the hard core of individual liberty. Unjustified deprivation of liberty under unacceptable conditions of detention is both a means of exerting pressure on those who have entered the country, and a message to those who would seek to enter in the future. Yet, as demonstrate by the empirical record and a growing body of scholarship (see, for example, Rosiere and Jones 2012), unlawful detention is futile. Nothing can stop or make an example of people who are without hope and determined to complete their journey whatever the cost.

Second, immigrants are defined in Manichean terms as legal or illegal at one and the same time as substantive understandings of what constitutes legal or illegal status are in a state of constant evolution. This has created considerable ambivalence - what critics have called a ‘lack of immigration policy’ - after 1990, resulting in a limbo-like state for the

persons and rights involved. The liminality and exclusion of migrants, along with the criminalization of support and solidarity from ordinary citizens towards undocumented immigrants (e.g. for providing any kind of aid and transportation, see Act 3386/2005), has led to the increased securitization of the social arena. In this regard, it is my contention that legislation which criminalizes ‘clandestine’ (*lathraioi*) immigrants creates more risks than it obviates. The vast majority of people who, from a legal perspective, live for years in a grey zone as ‘undocumented’ have limited access to licit markets and platforms. This is perhaps most evident with regard to ‘second-generation’ migrant youth who have attended Greek schools, grown up immersed in Greek society and who generally are fully socially integrated, yet who encounter the spectre of legal exclusion when they become adults with regard to acquisition of citizenship and residence permits.

Third, the discussion of immigration frequently focuses in a selective fashion on the need for ‘rational management’ of migrant flows as a tool for achieving other political goals. This fails to take into account the underlying reasons for migration such as insecurity in countries of origin, and aspirations to social and economic advancement. Similarly, little attention is paid to the interplay between national and European migration policies and the ineffectual practices to which this can give rise particularly in the area of policing (Human Rights Watch 2011).

Fourth, the right to asylum has been trivialized in both Greece and Turkey, as attested to by the fact that in both countries the awarding of asylum is almost nil. For example, Turkey, adopted a new law on refugees on April 2013, according to which people arriving in Turkey ‘as a result of events from outside European countries’ will only be given *conditional refugee* status¹². Turkey restricts its obligation to examine any application for asylum from applicants coming from non-European countries, while Greece grants asylum to less than one per cent of applicants per year via a process that lasts more than five years. In Greece, moreover, asylum seekers tend to be seen as illegal or clandestine immigrants and their special status is often ignored by the authorities. The granting of refugee status is also becoming an increasingly politicized process which can lead to failure to protect asylum seekers. Practices include unprovoked violence by the

police and port authorities, detention in degrading conditions of those who do (or do not) seek asylum, and extradition/deportation to countries where the life of the deportee is under threat (e.g by Turkey to Iran or Uzbekistan).¹³

Fifth, Greek and Turkish law include measures which envisage immigrants, legal or illegal, as a 'danger to public safety'. In this context, the Greek legislature has penalized aid towards undocumented immigrants and authorized special deportation processes against immigrants who have been subject to investigation for a petty crime but not yet convicted by a court. In effect, the law penalizes identity - being an immigrant - rather than acts. This is a dangerous pathway reminiscent of the experience of Greek society during the pre-1974 era when certain ethnic and political identity groups were subject to 'special' regimes. For example, Greek citizens of Slavic or Muslim/Turkish descent were thought to represent a threat to the 'nation' and thus were deprived of their status as Greek citizens. If in the past, leftists and minority citizens were classified according to categories of exception; today, it seems that the target is immigrants and refugees. Tomorrow, it may be others.

Sixth, detention and extradition/deportation - which tend to be rationalized as serving the security of a majority population envisaged as under siege and in need of protection - have proven to be rather ineffectual mechanisms in managing immigration flows. To be sure, security is the foundation of every organized society and is a prerequisite for the effective exercise of rights by individuals and of freedom. Yet, today, an understanding of security which privileges individuals' is being displaced by a vision which emphasizes the 'security of the state' in ways which may threaten the precious gains of recent years regarding the primacy of rule of law and checks on authority.

Ultimately, immigration is a complex problem with a deeply political character, given its connection to the (in)security and cohesion of society at large. To pass the threshold of legality remains a profound aspiration of hundreds of thousands of people who have formed vibrant links with their country of residence. As long as these people live in limbo they will be have to work on the black market under exploitive and alienating conditions.

This in turn, has negative consequences for society at large in that it can fuel far-right discourses, racist violence, and gratuitous cultivation of xenophobia.

Such phenomena can be offset by a more realistic discourses and practices that offer inclusive rather than exclusionary solutions which would ensure the security - in practice and in the eyes of the law - of all immigrants and by extension citizens. Policies could be informed by the following priorities set forth by the Hellenic League of Human Rights.¹⁴

These include:

- 1) The re-examination and awarding of residence permits to all those excluded from the legalisation wave of 2005,¹⁵ or to all those who had not fulfilled the requirements at the time;¹⁶
- 2) The implementation of six-month residence permits as authorized by Article 24, Law 3907/2011 (for those who arrived after 2005);
- 3) The reduction of the required residency period for undocumented aliens from 12 to seven years, or less for the issuing of the special residency permit of the new Article 44, Act 3386/2005, when there is evidence of the existence of experiential bonds;
- 4) The implementation of a fair system for the recognition of political asylum in accordance with Act 3907/2011, and the rapid clearance/resolution of pending applications;
- 5) The registration of immigrants of different categories, to make known and visible to both immigrant communities and the relevant authorities who is entitled to what rights (registration could be conducted in 'screening centres' in border areas or through the provision of health care all over Greece).

5. Muslim immigrants: The challenge of Greek society?

While all migrants experience a set of common challenges, the predicament of Muslim migrants is inflected by both historical and contemporary ambivalence towards the Muslim presence in Greece (Tsitselikis 2012). After an initial period during the 2000s when Muslim immigrants were not widely visible, a strong movement emerged to claim

rights for Muslim migrants and to protest against Greek police actions perceived at targeting the Muslim immigrant community. A turning point in this regard was 22 June 2009, when the first ever march organized by Muslim immigrants was violently dispersed by the police in Athens. A week later, a new march was organized by members of Muslim communities, though not all Muslim immigrants chose to participate. The events received publicity and brought to light a series of crucial issues regarding the conditions all immigrants, such as working and living conditions. It also highlighted problems specific to the experiences of Muslim immigrants related to the right to worship which had not yet received a public hearing. There was, however, no immediate response from the political authorities and the police forces were left to deal with Muslim - and other immigrants' - complaints and disappointment. Gradually, new voices from politicians and human rights activists to the leaders of the communities in question began to speak of the social and legal problems of Muslims.

Meanwhile, a fierce anti-Muslim discourse was endorsed by ultra-right political forces, such as the Popular Orthodox Rally (LAOS) party and the rising neo-Nazi group *Hrysi Avgi* (Golden Dawn).¹⁷ Islamophobic discourses centred on the issue of citizenship, voting in local elections, and the debate over whether a mosque should be constructed in Athens. This agenda was set forth in colourful discourses like the declaration of Bishop Amvrosios that, 'One million Muslims today and many more tomorrow will strike against Orthodoxy! They have it in their blood. They are the sword of Mohamed'.¹⁸ This kind of language was echoed in racist violence targeting Muslims, such as attacks on mescits (prayer halls) and the harassment of Muslims during prayer. Expressions of Islamophobia, as such, map onto anxieties and obscure injustices related to immigration, the economic exploitation of immigrants, and the inability of the authorities to protect their fundamental rights and foster social integration. Anti-Muslim demagoguery also produces votes.

That the challenges faced by Muslim immigrants have become a matter of debate only quite recently is also striking because it reflects a persistent denial of a place for Muslims in Greek society, from immigrant Muslims to the indigenous Turkish/Muslim minority in

Thrace and the Dodecanese. A reluctance to acknowledge the extent and growing ethnic diversity of Greece springs, I argue, from the unspoken and ideological view that the much touted homogeneity of the Greek nation is - and perhaps always has been - a fiction. Meanwhile, the daily devaluation of immigrants' dignity, and, for Muslims in particular, the demeaning of their religious sentiments, *in tandem* with the indifference of the authorities to migrant/Muslim grievances has piqued a range of reactions. These include political solidarity among Muslim immigrants, as well as radicalization which draws on the symbolic power of religious ideology¹⁹.

A recent case that testifies to the loaded set of issues and sentiments regarding Muslim migration was the hunger strike by 200 Muslim immigrants, mostly from Maghreb countries, in early 2011. The initiative sought to draw attention to the plight of undocumented immigrants and the need to uphold their rights. The strike increased the visibility of Muslim immigrants in Greece and triggered a series of reactions in the broader community, from solidarity to racist and xenophobic attacks. Their ambivalent legacy includes a sense of success among the strikers themselves as well as amongst many of the individuals and organizations who supported the movement. At the same time, the initiative reinforced the defensiveness of those who claim that the country is being overrun by immigrants and led to fear-mongering amongst those who accused the government of backing down. In any case, the end of the hunger strike offered no structural solutions to the immigration question which will no doubt recapture the spotlight when the next debate erupts.

The economic crisis with its bundle of state and private debts and the placement of Greece under the supervision of the IMF, the European Commission and the Central European Bank has led to considerable cuts in salaries and public expenses; it has also raised unemployment and engendered political instability. It led to the replacement of the government led by Giorgos Papandreou and elected in 2009 by a government of politicians and technocrats in 2011; this was followed by double elections in 2012. This rocky political process has gone hand-in-hand with a radical transformation of the political scene unprecedented since the return of democracy in 1974. The political

spectrum has moved considerably to the right and political discourse increasingly targets immigrants. At the same time, there has been rising criminality in places like central Athens in some neighbourhoods largely populated by immigrants which has further fuelled anti-migrant positions. By the elections of May and June 2012, anti-immigrant hate speech and violence had increased notably. New Democracy (*Nea Dimokratia*) won the elections and formed a coalition government together with PASOK and the Democratic Left (*Dimokratiki Aristera*). During the pre-election period *Nea Dimokratia* and its president Antonis Samaras, who became prime minister, raised the anti-immigration flag, declaring that ‘Greece is not going to continue to become a magnet for immigrants’. Although the ultra-right political party LAOS proved unable to re-enter the parliament, the populist right party Independent Greeks (*Anexartitoi Ellines*) won about 10 per cent of the vote and a neo-Nazi party (Golden Dawn, *Hrysi Avgi*) received 7 per cent (from 0.3 per cent in previous elections). Since then, the public debate has focused on political violence which is often related to racism.

In the wake of elections, there have been almost daily neo-Nazi attacks on migrants. Most target Muslims and their prayer halls.²⁰ Such violence is rationalized by its perpetrators with reference to the superiority of the Greek race and a promise ‘to cleanse Greece of immigrants’.²¹ It also arguably reflects a political agenda, namely the establishment of a non-democratic ethno-socialist regime. Meanwhile, the three-party government has proved divided over a new anti-racism law. In May 2013, three different draft laws were unable to gain the support of a majority of parliamentarians and were abandoned.

The economic crisis and its political fallout also has had a number of other consequences. One of these is repatriation in that some migrants, especially from Albania, have started to return home or or move to other countries. Undocumented transit migrants have found new routes to head westwards, often through Albania or the countries of the former Yugoslavia. Meanwhile, with an unprecedented unemployment rate of 25 per cent in the country overall, immigrants have been heavily affected, both in terms of finding work and in terms of being able to claim benefits like insurance (Foundation for Economic and Industrial Research 2012). As a result, thousand of migrants have not been able to present

social security stamps (*ensima*), a legal requirement to obtain the biannual extension of their residence permits. Last but not least, as growing numbers of formerly legal immigrants fall under the spectre of ‘illegality’, and are blamed for the malaise of society at large, the potential for their integration, as well as reservoirs of empathy and social solidarity are diminished.

6. Conclusion

In Greece as well as Turkey there is an urgent need for further legislation informed by rule of law and the standards that have been elaborated at a European level (Council of Europe 2011) to address a host of immigration-related issues, which include but are not limited to unfair and unjustified detention under degrading conditions; unregulated processes of extradition/deportation; degrading treatment of immigrants by the police and public administration in general; a tendency by the courts to exhaust and exceed legal limits during criminal proceedings against foreign defendants; political, ideological, and administrative resistance with references to the *jus sanguinis* (law of blood) during the process of acquiring citizenship; inadequate protection of workers’ rights; difficulties in the implementation of special rights (e.g. family reunification); the lack of dialogue with and participatory mechanisms for aliens with regard to political decisions which concern them; the persistence of these legal problems vis-à-vis second-generation immigrants; and ineffective safeguards for assuring the right of access to health care, education, and shelter. Substantive as well as declarative respect for human dignity is missing from both discussion and practice, not least because of the role of ‘blood’ and ‘descent’ in public and social discourses about belonging. Emphasis on *jus soli* and active measures to encourage immigrant participation in civil society can help ameliorate the situation.

At the end of the day, Greece and Turkey have to deal with a major challenge of our globalized times particularly in an era of upheaval in the Middle East and North Africa. This is the ebb and flow of peoples from lands struck by devastation, war, famine, environmental disasters, and economic underdevelopment. The movement of peoples as a result of these phenomena mark both migrants and their hosting societies (Green 2002).

There is much room for cooperation between the two countries in their attempts to deal with comparable challenges. This, however, is obstructed due to the persistence of mutual recrimination (as well as Turkey's unwillingness to observe the Protocol on Readmission of 2001). The upshot has been a number of missed opportunities. The two states, for example, could undertake joint studies of phenomena of interest like the circulation of migration between home or third countries. They could also seek to develop common strategies towards addressing the needs of victims of trafficking, torture and other situations that demand special treatment. Efforts could be channelled towards jointly addressing such problems at the European level, such as a redistribution of funds and the establishment of new reception centres for immigrants and asylum seekers that comply with fundamental legal principles (see Article 3, ECHR).

Today, I have argued, immigrants' alterity is cited to rationalize their economic exploitation and social exclusion, practices which only serve to alienate and radicalize immigrant communities. The challenge then is to work towards constructing new approaches which foster inclusive attitudes on the basis of constitutional patriotism. Such a framework would help minimize social inequality and marginalization, and foster a vibrant and transparent public debate. At a practical level, this would also help reduce the 'costs' and increase the 'benefits' that accrue to policymakers who have yet to tap the vast energies of immigrant communities - potential constituents who have been changed by and in turn are transforming the societies in which they live.

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¹ Direct bilateral cooperation was conducted to a minimum extent with reference to the Greek-Turkish 'Protocol of Readmission to Combat Irregular Migration', signed on 8 November 2001. The protocol entered into force in April 2002, according to the Greek-Turkish agreement of cooperation signed in 2000 (Icduygu 2005).

² It is very difficult to have a reliable number of Christian immigrants in Turkey. It should not be more than 80,000 coming from Armenia, Georgia, Ukraina, Moldova and Bulgaria (statistics on immigration in Turkey: International Organisation for Migration 2008). In Greece, Muslim immigrants could be about 300,000 (Tsitselikis 2012).

³ Among others see the Hellenic League of Human Rights; European Union Agency for Fundamental Rights; and UNHCR.

⁴ In Turkey, the status of refugee can not be granted for those coming from Asia or Africa, in Greece special measures target immigration *in toto* as an unwanted phenomenon.

⁵ Answer of Mrs Malmström in the name of the Commission, 6 December 2011, to question E-5191/2011 submitted by MEP Mr Papanikolaou.

⁶ The Greek government has sought to reassure its Turkish counterpart that the wall is not intended to target Turkish citizens.

⁷ Council Regulation (EC) No. 343/2003 of 18 February 2003 established 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 regulation established the principle that only one member state is responsible for examining an asylum application. The objective is to prevent asylum seekers from being sent from one country to another, and also to prevent abuse of the system by the submission of several applications for asylum by one person.

⁸ ECtHR, *Tabesh v. Greece*, No. 8256/07, 26 November 2009.

⁹ *Abdolkhani and Karimnia v. Turkey*, No. 30471/08, 22 September 2009; *Jabari v. Turkey*, No. 40035/98, § 49, ECHR 2000-VIII; *Alipour and Hosseinzadgan v. Turkey*, Nos. 6909/08, 12792/08 and 28960/08, 13 July 2010; *Z.N.S. v. Turkey*, No. 21896/08, 19 January 2010; *M.B. and Others v. Turkey*, No. 36009/08, 15 June 2010; *Ahmadpour v. Turkey*, No. 12717/08, 15

June 2010. In some cases, the Court found that detention conditions did not comply with Article 3 of the convention: *Tehrani and Others v. Turkey*, Nos. 32940/08, 41626/08, 43616/08, 13 April 2010; *Charahili v. Turkey*, No. 46605/07, 13 April 2010.

¹⁰ *Supra*, note 2.

¹¹ On the legality of the establishment of these detention centres vis-à-vis the non-feasible deportation of the immigrant detainees see: www.hlhr.gr/details.php?id=682.

¹² University of Oxford, *Turkish Migration Studies Group (TurkMiS)*,

<https://www.compas.ox.ac.uk/research/dynamics/turkish-migration-studies-group/>

¹³ Problematic conditions of detention have been documented by the ECtHR, see all relevant cases cited above.

¹⁴ Available at: www.hlhr.gr.

¹⁵ According to Article 91 of Act 3386/2005 immigrants living in Greece before 31 December 2004 had the right to apply for legal documents.

¹⁶ To reduce prohibitive transaction costs, the measure should be enforced in tandem with a reduction in the number of social security stamps required for the issuing of documents like residence permits.

¹⁷ Party websites are at www.laos.gr/load_file.asp?epilogi=\press\txtfiles\PIATPA231010.txt; www.elora.gr/portal/inter_views/9--/2559-2010-11-04-14-41-49; and <http://xryshaygh.com>.

¹⁸ For the declaration see: www.romfea.gr/index.php?option=com_content&view=article&id=4275:-1-qq-&catid=26:2009-12-18-08-38-40.

¹⁹ On different approaches on social exclusion and its modalities, see Robbins 1999.

²⁰ During Ramadan in August 2012 groups of neo-Nazis attacked a series of prayer halls in Athens, see: www.newsit.gr/default.php?pname=Article&art_id=157084&catid=3.

²¹ The political platform of the Golden Dawn is available at: <http://xryshaygh.com/>.