

# **Bordered by COVID-19 and the EU-27: Imagining a theology of global domicile<sup>3</sup>**

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## **Abstract**

The European Union legislates the free movement of people, capital and goods, within and between its member states. This political commitment has been hard-pressed by the undocumented migrants entering the EU. The COVID-19 pandemic catalysed restrictions upon the free movement of people within the EU. Whilst legal, these restrictions posed a significant existential threat to the EU. Accompanying these is an increasing tendency to prioritise the claims of the nation state above all other obligations, including those of international law or any sense of moral or ethical obligation. European churches play an active role in refugee advocacy and welfare, fostering processes of welcome and integration, accompanied by the development of ecclesiologies that simultaneously transcend borders and acknowledge their legal and political necessity. This paper highlights the responses of nation-states to migrants and contrasts these with a

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<sup>3</sup> The concept of “global domicile” was first introduced to me by one of my PhD students, Kamal Weerakoon, but requires further definition and description.

constructive diaspora theology that is fit for purpose within the context of the European Union and its member states.

Keywords: diaspora theology, European Union, COVID-19, migrants, integration, free movement of people

## **A brief personal reflection of being “bordered” by COVID-19 lockdown restrictions**

I have prepared this article in circumstances I would not have chosen. When I first agreed to contribute the paper on which it is based, I was unable to travel from my Sydney home to my place of work in Melbourne or to the Melbourne unit where I have housed my personal library and archives.

I have experienced, in some measure, what it means for my scholarly activity to be a “bordered” activity, even where there existed the possibility of overcoming some of that “bordering” through e-book purchases or the use of online journal databases.

In shaping this paper, I reflect that I relied, in some instances, upon memory and impressions of books read and sitting on shelves over 600 km away; memories that are invariably partial and fragmentary. It leads me to ponder the extent to which scholars in diaspora must face similar restrictions of access to necessary and needed resources. Perhaps that is the nature of migration for the academic, a process of scholarly dislocation from the networks and associations within which scholarship has been nurtured and stimulated. The legacy of dislocation vests us with partial accounts or recollections of previous knowledge and acquaintance, perhaps even our former selves and lives. The risk is that these become forever partial and fragmentary.

## **COVID-19 and lockdown within the European Union**

I have had a research interest in the European Union (EU) since around 2003, and I arrived in Australia in 2012 with a visa that identified me as an economic migrant. The 1957 *Treaty of Rome* established the forerunner of what has become the European Union (formerly the European Coal and Steel Community, European Economic Community, European Community) and enshrines the freedom of movement for workers, imagining labour as a transportable commodity and consequently a strategy of popular European integration. In 1986, the *Single European Act* made

significant amendments to the 1957 *Treaty*, and its Article 13 envisaged “an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured...” (European Communities, 1987, p. 7) Throughout this period, the concept of the “third-country national” was adopted as a way of describing citizens from countries outside of the European Community. Following the Maastricht Treaty (1992), border legislation was drafted into EU Law and the EU was granted competencies in patrolling external borders.

The EU, established upon the free movement of people (and the right to seek asylum), has been sorely tested by the challenge of undocumented migrants crossing its external borders. More recently, the lockdown and travel restrictions imposed in response to the COVID-19 pandemic have highlighted a perplexing conundrum seemingly at odds with the foundational principles of the EU.

This is the legal and political context upon which I reflect, as a practical theologian, and as I try to understand the principles of governance that must determine the policy and practice of European governments as they balance their historic commitment to human rights, including those of the asylum seeker and refugee, and their public healthcare obligations during the current global pandemic. The practical theologian’s role is to consider what constitutes good government during such times, to offer counsel that reflects a commitment to shared life and the common good, and to do so in way that is consistent with the traditions of Christian ethics and morality.

## **Derogation from the human right to freedom of movement**

If the EU is established in the notion that States must act collaboratively to further their individual aspirations, it seems sensible to set our discussion of the EU’s response to COVID-19 in the broader context of global governance.<sup>4</sup>

The UN’s *International Covenant on Economic, Social and Cultural Rights* (United Nations, 1966a, p. 4) contains provisions guaranteeing “the highest attainable standard of physical and mental health” and requires governments to develop policies and practices that ensure the “prevention, treatment and control of epidemic, endemic, occupational and other diseases”.

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<sup>4</sup> The fact that I presented this at an APTO conference serves as a reminder that border control was implemented to good effect by the Pacific nations in the effort to protect their vulnerable populations.

The *UN Committee on Economic, Social and Cultural Rights* located the right to health, irrespective of being a refugee or asylum seeker, alongside other human rights:

3. The right to health is closely related to and dependent upon the realization of other human rights, as contained in the *International Bill of Rights*, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement. These and other rights and freedoms address integral components of the right to health. (United Nations, 2000, p. 2)

The *UN Economic and Social Council* and the *UN Human Rights Committee* juxtapose these fundamental human rights with the freedom of movement during states of emergency. In adopting the *Siracusa Principles*, in 1984, the UN outlined principles that frame any derogation from rights contained within the *International Covenant on Civil and Political Rights* (United Nations, 1966b). Where a “public emergency threatens the life of the nation”, the *Siracusa Principles* make provision for the derogation from the right of freedom of movement (American Association for the International Commission of Jurists, 1985, p. 3). Any restriction of the freedom of movement is required to be lawful, necessary and proportionate, and should consider any impact experienced by especially vulnerable or marginalised groups within the wider population.

In 2020, the UN High Commission for Refugees moved to caution against the removal of the rights enjoyed by vulnerable asylum seekers and refugees, by declaring that:

Under international law, States have the sovereign power to regulate the entry of non-nationals. However, international law also provides that measures to this effect may not prevent them from seeking asylum from persecution. (United Nations High Commissioner for Refugees, 2020, p. 1)

The response of the European Union has highlighted some of the complexities of pan-EU governance. To date, the member states of the EU have not conferred competency upon the EU in the arena of public health; the EU can only play a supporting role. Consequently, healthcare responses have been disparate and uncoordinated. Article 5

(1) (Right to liberty and security) of the *European Convention on Human Rights* (Council of Europe, 1950, p. 7) obliges member States to act proactively in the provision of healthcare. However, Article 15 of the *European Convention on Human Rights*, a fundamental document for the 27 EU member states, contains provision for derogation from human rights during “war or other public emergency threatening the life of the nation”, such as pandemic or bioterrorism. This provision is similar to that in the *International Covenant on Civil and Political Rights (ICCPR)*, mentioned above.<sup>5</sup>

The complexities are on view in the instance of Italy, arguably the first European country to experience the pandemic character of the virus. In early November 2020, the UK *Guardian* reported on attempts by the European Commission to gain greater competencies regarding public healthcare across the EU, noting that “At the height of the first wave of the pandemic, the Italian government hit out at the lack of solidarity within the EU after its urgent calls for medical resources from fellow European governments were ignored” (Boffey, 2020). At the same time, the former Italian deputy Prime Minister, Matteo Salvini, and a leader of the far-right Northern League (*Lega Nord*) was on trial in Sicily for the 2019 “kidnapping” of 116 migrants from North Africa prevented on his orders from being disembarked from a coastguard ship whilst he was Italy’s Interior Minister. Moreover, Salvini’s attempts at political capital “wrongly linked COVID-19 to African asylum seekers, calling for border closures” (Devakumar et al., 2020). Commentators argued that “the issue...has nothing to do with the spread of COVID-19. Rather, COVID-19 has become a platform to deliver anti-migration rhetoric aimed at African immigrants in Italy” (Chamburuka & Gusha, 2020, p. 5).

## **Borders and “bordering”**

The political opportunism might not necessarily surprise for, as some suggest, the limitations upon national sovereignty remain contested, at least among the member states of the EU. This reflects the historical legacy of Westphalian notions of sovereignty that grant the right of border control to the State. However, writing in the September 2020 edition of the *Canadian Public Administration* journal, six academics argued that the COVID-19 crisis will force governments to “reconceive international and sub-national borders where new ‘borders’ are being drawn; and [require them to]

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<sup>5</sup> For more on the impact of COVID on rights to international travel, the reader can consult the work of Lebret (2020) and Bachmann and Sanden (2020).

anticipate a steady stream of crises similar to the COVID-19 pandemic arising from climate change and related challenges” in the face of “imperfect expert knowledge and public skepticism” (Brousselle et al., 2020, p. 369).

Thomas Nail’s philosophy of motion, kinopolitics, and his theory of borders rely upon the notion that borders are in constant motion, designed to circulate the movement of people rather than prevent it, and that they are tools of primitive accumulation (Nail, 2015, 2016, 2018). His central, and perhaps counter-intuitive, move is to argue that borders do not describe movement merely because they facilitate the passage, or movement, of people, but that *borders themselves are in motion*. Most obviously, geomorphological factors shift borders. Additionally, physical erosion, decay and decomposition result in borders that imperceptibly shift over time. States might cede, exchange or claim new territory. More catastrophically, territorial conflicts might see borders redrawn. Some borders remain indistinct or disputed. Nail quotes favourably from Nick Vaughan-Williams, who insists that the border is “(re)produced through modes of affirmation and contestation and is, above all, lived. In other words, borders are not natural, neutral nor static but historically contingent, politically charged, dynamic phenomena that first and foremost involve people and their everyday lives.” (Vaughan-Williams, 2009, p. 1)

The phenomenological dynamism of the border, especially the activity of “bordering”, is not only central to Nail’s work but, as noted above, is anticipated by the authors of the *Canadian Public Administration* article. Elsewhere, Teresa Hayter argues that “The morality of frontiers...is threatening to invade the interiors of countries” (Hayter, 2004, p. 150). It’s important to remember that the State border is only one form of frontier. My own practical theological discipline of missiology has an ambiguous relationship with frontiers. It has often used the metaphor of the frontier in talking about those things that divide people into several binary categories (Heathen-Christian / reached-unreached / believing-unbelieving / etc.) Whatever the virtue of those binaries, the fact remains that frontiers represent far more than merely borders. A hardening of the borders must inevitably find its correlation in a hardening and policing of internal frontiers (whether conceived upon race, religion, caste, criminality (think of New Zealand residents in Australia who have broken the law and are subject to deportation), wealth, social status.

If COVID-19 forces a reconsideration of borders, and possibly frontiers, such outcomes might ultimately prove beneficial to those formerly reckoned as needy foreigners, even enemies, who have “illegally” crossed a border and therefore deserve punishment.<sup>6</sup> In an effort to accelerate a reconsideration of borders and bordering, the voices of theologians and moral philosophers must swell the chorus. Reflecting on a year without travel, Secretary General of the World Evangelical alliance, Bishop Efraim Tendero suggested that “...with the borders closed to travel, we have found that we live in a borderless world” (Tendero, 2020, p. 199).

The Zimbabwean scholar, Philemon Chumburuka, uses the parable of the Good Samaritan to reflect on the consequences of COVID-19 for bordered existence, social inclusion and neighbourliness. He concludes that:

even those that have built walls on their borders could not prevent the pandemic from entering their countries. We now perceive the world as a global village and therefore we cannot live in isolation. Social inclusion is therefore an important lesson to be drawn from the parable and it is an important aspect in fighting the pandemic as nations. The audience, the lawyer and the wounded man had to learn that the one who was perceived by history as an enemy was in fact a neighbour. (Chamburuka, 2020, p. 6)

This reading of this familiar biblical narrative from Luke’s gospel provides biblical and theological correspondence with the views of scholars of race who argue that, for example:

Immigration controls have their origins in racism. Time and again, in the history of controls, it becomes clear that the reason for them is not excessive numbers of immigrants, or any realistic assessment of immigrants’ effects on jobs, housing, crime, or health, but the supposed “non-assimilability” or “inferior stock” of certain immigrants. (Hayter, 2004, p. 21)

Returning to our opening theme of the freedom of movement and the right to seek asylum, Hayter argues that immigration controls, as one form of bordering, impose increasingly harsh conditions upon refugees and migrants, undermine human rights, in reality are

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<sup>6</sup> We might ask whether discrimination grounded in criminality has become a proxy for discrimination grounded in race? Why has it become so necessary to describe undocumented migrants as illegal? Why are black residents of city centres frequently described as criminals, racists, muggers, joyriders, drug abusers, etc.?



designed to be a deterrence to others rather than to be a fair or just treatment of the asylum seeker, and are incompatible with liberal democracies.<sup>7</sup>

### Diaspora theologies of solidarity

Whilst some of the hoped-for changes in the way that borders are conceived might seem hopelessly optimistic, there nevertheless remains a question that is central to our own theological sub-disciplines, namely the question of how we are to respond theologically. What are the theological, ethical, moral, philosophical and biblical resources that communities of faith can apply to the current realities? The very brief survey of possibilities listed immediately below is certainly in need of wider research, but it will be at least suggestive and illustrative.

For example, Kwame Anthony Appiah envisages the notion of “rooted cosmopolitanism as a form of global citizenship and common humanity” (Appiah, 1996, p. 22). Emily Askew proposes a “theology of Cross/ing in which the crucified Christ challenges the status quo of state policies that promote injustice, suffering, exploitation, and poverty” (Askew, 2018, p. 188). The editor of *Christianity Today* speculates on the fact that:

...proximity is both geographic and relational. Perhaps our shared experiences with this virus—rich nations and poor nations—will bring us all a little closer once we’ve emerged from the haze of self-isolation. Perhaps the next time we hear of some faceless people group out in the world suffering from an invisible, enigmatic predator, those people won’t be so faceless after all, because we’ll see ourselves in them. (Olsen, 2020, p. 40)

A theologically conceived commitment to global solidarity runs through each of these examples, and is also on display in Roger Nam’s reading of the biblical narrative of the widow of Zarepath and Elijah (Nam, 2020). Through his reading, Nam lays bare the inequalities of COVID and he writes, “The economic burden of COVID-19 falls more heavily on those with less access to resources, access that is both racialized and gendered”. He continues, “How do the biblical texts resonate with our experience of inequality, heightened by the reality of COVID-19?” (Nam, 2020, p. 603). The work that Nam does with the Hebrew Bible text is mirrored in the work undertaken by Chamburuka on the New Testament texts of Luke. The parable of the Good Samaritan is important in

<sup>7</sup> Although Nail would argue they are a highly valuable tool of neo-liberal accumulation (Nail, 2019, pp. 199-202).



that it addresses the discriminations heightened by our response to the threat posed by COVID-19, discriminations that rely upon stigma, hate and stereotypes (Chamburuka, 2020). The alternative is informed by a theology of solidarity.

Anticipating the theological rationale for a supra-statal right to global domicile

In advancing an agenda directed towards outlining such a rationale, we will have to consider the extent to which creation might be ontologically bordered. If it is apparently unbordered, what might this suggest or imply? Alternatively, what would a bordered creation suggest or imply? Are examples of social and political bordering in the biblical narratives primarily inclusive or exclusive acts of bordering?

Moreover, what is the correlation, if any, between the biblical reference to God marking out the territory allotted to each “nation” and the bordering that makes possible the existence and continuance of the modern nation state?<sup>8</sup> Why is the nation state unthinkingly privileged in much contemporary biblical interpretation? Whilst Thomas Hobbes’s arguments that state sovereignty defines legitimacy might suggest moral support for state actors reinforcing and regulating borders, in contrast, Daniel Groody’s exposition of Roman Catholic social teaching insists that the sovereign rights of states are never an absolute right, nor are they unquestioningly self-legitimising. He writes,

It affirms that God—and not the state—grants rights to people, asserting that the state's responsibility is to protect and defend those rights when they are threatened or diminished; it does not see the state as the fundamental source or grantor of these rights.  
(Groody, 2015, p. 51)

However, in practice, it is frustratingly the case that morality is constantly assumed to be on the side of the national interest and it is *not* necessarily considered immoral to refuse the asylum seeker entry on the grounds that certain privileges, enjoyed by citizens, might be thereby threatened. Within the provisions of international law, undocumented migrants are never left without the protection of their rights to flee persecution, ensure the safety of their family and seek meaningful employment. In practice, these are only adequately protected through the acquisition of citizenship. Kristin Heyer draws a stark contrast:

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<sup>8</sup> In, for example Acts 17:22-28 “he made all the nations, that they should inhabit the whole earth; and he marked out their appointed times and the boundaries of their lands”. A post-colonial reading of this text with regard to the imperial context for its delivery might assist in illuminating its otherwise confusing aspects.

Whereas the basic human rights reflected in international rights regimes and presupposed in Catholic social thought are universal in theory, in contemporary practice their exercise depends upon legally sanctioned membership in a political community. (Heyer, 2012, p. 110)

Building upon this statement of *realpolitik*, Heyer proposes an ethic of immigration grounded in Christian hospitality and neighbour love, including the promotion of structures and practices marked by kinship and justice alongside a commitment to global solidarity (Heyer, 2012, p. 4).

To the extent that a theology of global domicile is conceivable, a Christian moral vision must encompass the notion of a global citizenship and its rights, grounded in a notion of human flourishing (Volf & Croasmun, 2019). It would be seen as immoral if food was prevented from crossing a border to feed the starving citizens of a country experiencing a famine. The same would be true for economic aid, including technological assistance, professional skills, or financial support. Ethics grounded in the priority and interests of the nation-state, or economic efficiency, pose well-documented threats to human life and dignity, bodily integrity, family unity and the rule of law. Global solidarity, resting in a theological vision, must present a more compelling narrative than those offered by neo-liberal accounts of globalisation.

## **Concluding observations**

For more than half a century, European churches have maintained an active role in refugee advocacy and welfare, fostering processes of social and ecclesial welcome and integration throughout this period. More recently, these concerns have been matched by a growing awareness by the same churches of the need for ecclesiologies *sans frontières* that are acutely sensitive to the legal and political realities of borders and bordering, and which, through their witness and testimony to reconciled diversity, are able to persuasively demonstrate that bordering as a political and social act continues to have devastating personal, familial, communal, social and ecclesial consequences.

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