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Migration, Entry Fees, and Stakeholdership

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Abstract: The current European ‘migration crisis’ encompasses increasing rates of migration and the accompanying failure of migrants, including both economic migrants and refugees, to integrate. In this paper, I focus on a normative analysis of the entry fee immigration system, providing both an internal and external critique. In the internal critique, I take for granted that states are best understood as clubs. However, states seem to share greater similarities with clubs that are too exclusive to allow membership to be purchased. In the external critique, I argue that imposing a substantial entry fee on club membership is impermissible if exclusion from membership deprives non-members of basic rights and interests, even if measures are taken to equalise their ability to pay. The upshot of the internal and external critique, I believe, is that membership ought not to be contingent on the payment of a fee, or more generally, the acceptance of current members.

Keywords: immigration, refugees, exclusion, inequality, stakeholdership

1 Introduction

The current European ‘migration crisis’ encompasses increasing rates of migration and the accompanying failure of migrants, including both economic migrants and refugees, to integrate. In response, Margit Osterloh and Bruno Frey have made a novel proposal. They recommend that would-be migrants pay a one-time entry fee that would be directed to the state’s public funds. Upon payment, they would be allowed to “enter the country of choice without danger and to participate in the labour market” (Osterloh/Frey 2018, 210). On this account, states are treated as cooperatives or clubs whose collective goods can only be accessed if non-members pay an entry fee.

In this paper, I focus on a normative analysis of the entry fee immigration system, providing both an internal and external critique. In the internal critique, I take for granted that states are best understood as clubs. However, states seem to share greater similarities with clubs that are too exclusive to allow membership to be purchased. In the external critique, I argue that imposing a substantial entry

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fee on club membership is impermissible if exclusion from membership deprives non-members of basic rights and interests—as it certainly would in the case of the state. This problem cannot be fully resolved even if refugees are refunded the entry fee and prospective migrants are able to choose from a range of financing options. The upshot of the internal and external critique, I believe, is that membership ought not to be contingent on the payment of a fee, or more generally, the acceptance of current members. For this reason, we should abandon the notion of the state as a club that can determine its own membership criteria. Drawing on the work of Rainer Bauböck, I argue that membership should instead be governed by a broad *stakeholder principle* that recognises migrants can be entitled to membership simply because their life-circumstances tie the fulfillment of their basic rights and interests to the flourishing of a particular state.

I proceed in this manner. In *section 2*, I outline Osterloh and Frey’s proposal. Next, *section 3* lays out my internal and external critiques of the entry fee system. *Section 4* establishes an alternative framework for European immigration policy: one that treats both citizens and migrants as stakeholders in the community. I conclude in *section 5* by briefly considering the implications of the stakeholder principle for European immigration policy.

2 Paying to Migrate: A Novel Solution

In this section, I outline Osterloh and Frey’s main arguments. I begin by elaborating on the two central problems of the European migration crisis that they identify. After that, I describe the key features of the entry fee system.

2.1 The European Migration Crisis: Two Central Problems

Osterloh and Frey sharply identify two pressing problems for the European Union at large. As a starting point, present attempts by European countries to prevent migration do not, in fact, stem migration flows: “Humanitarian problems of people smuggling, risks of dying in the Mediterranean Sea, and illegal stay in our countries will not come to a stop for a long time.” (202) To justify their claim, Osterloh and Frey provide a rich and nuanced discussion of why measures like increased border enforcement in receiving states, restrictive policies of granting asylum, and financial aid for developing countries in exchange for border controls cannot be treated as long-term solutions (202–208). Particularly out of concern for the safety

of migrants, it is imperative to come up with regulatory strategies that do not focus solely on exclusion.

At the same time, they note that “integration in [Europe] is deficient” (202). Rather than improving integration efforts, robust social benefits for migrants, policies supporting multicultural rights, and fast naturalisation have, in the authors’ view, contributed to poor integration outcomes. Why is this the case? Drawing on a wealth of empirical evidence, the authors hypothesise that easy access to generous social benefits has decreased the incentives for migrants to “invest in labour market possibilities such as learning the local language (human capital) or to establish contacts with the local population (social capital)” (209). Additionally, strong multicultural policies, like those that reject language or cultural requirements for accessing citizenship and exempt migrants from dress codes, demonstrate easy acceptance of ‘foreign normative ideas’ that reduce migrants’ incentives to assimilate (209). In turn, the low economic and cultural integration of migrants provokes negative attitudes from the local population, feeding right-wing populist parties that spread hateful messages about migrants. Negative attitudes towards migration also tend to lead to the favouring of skilled migrants over lower-skilled migrants, ultimately hindering a more humanitarian immigration policy that takes in unskilled refugees (210).

2.2 The Entry Fee Immigration System

In response, Osterloh and Frey make a novel proposal. They begin from the observation that when new persons wish to join clubs and benefit from the collective goods provided by existing members (e.g. a gym whose premises and equipment is maintained by those who pay membership fees), they often must pay *entrance fees*. The practice may be necessitated by basic principles of fair play, under which new members are obligated to take on their fair share of the burdens of the cooperative practice. At the same time, paying entry fees might also serve an expressive function; they demonstrate the individual’s commitment to join and their willingness to continue doing their share for the cooperative.

From here, Osterloh and Frey suggest that states can be regarded as clubs or cooperatives, and that by analogy, would-be immigrants should acquire a “participation certificate” by paying an entrance fee. In exchange, they would be allowed to “enter the country of choice without danger and to participate in the labour market”.¹ The entry fee system has several benefits that speak directly to

¹ Osterloh/Frey 2018, 210. It should be noted that, while the authors focus exclusively on the right of migrants to *enter* and *take up residence* within receiving states, they do not address nat-

the problems that Osterloh and Frey identify. Among other things, it would serve as an important pathway to membership for persons who would otherwise enter illegally. By explicitly encouraging migrants to participate in the economy, the entry fee also incentivises them to invest in human and social capital that facilitates their integration (213). In turn, this would hopefully reduce animosity from the local population and erode support for the far right.

Compared to other possible arrangements, the entry fee system straddles an intermediate position between open and more restricted border policies. In theory, the system is open to anyone who can afford to pay the entry fee: no additional criteria (e.g. demonstration of valuable skills or relationships to people in the receiving state) is imposed on prospective migrants. Yet the entry fee system may in practice retain a level of exclusivity. Although Osterloh and Frey stop short of recommending an exact price for the participation certificate, they mention that it must significantly exceed the cost of illegal migration, but it must not be so high as to only be available to the very rich (217f.). They postulate that the willingness to pay can be estimated by conducting surveys among immigrants into different countries and that a reasonable price can ultimately only be determined through trial and error (218). The price of the participation certificate may also be varied over different states and internal regions, depending on the state's preferred numbers and spatial distributions of migrants (213).

3 The Internal and External Critique

I now turn to why, despite the potential merits of the entry fee system, I am not entirely convinced that it should be adopted by European states. Here, I provide both an internal and external critique. The internal critique takes for granted the view of states as clubs or cooperatives, but points out that the state is best understood as similar to *exclusive* clubs that would not be willing to accept new members on the basis of an entry fee. On the other hand, the external critique calls into question the permissibility of charging an entry fee in the first place.

uralisation processes, which might be far more selective on their view. To become a citizen, you might need to do much more than pay a fee.

3.1 The Internal Critique: Are States Permissive or Exclusive Clubs?

In this section, I argue that the characterisation of the state as a club or cooperative that non-members can pay to join does not reflect how political membership is constructed. To understand why, the idea of the state as a ‘club’ bears analysing in closer detail. States have been compared to clubs on at least two other influential accounts of the state’s right to control immigration. Christopher Heath Wellman, for example, makes the argument that states have the right to exclude non-citizens on the grounds of their freedom to associate with, or disassociate from, whoever they please. Wellman uses the analogy of a golf club to make his case. He notes that a golf club’s right to determine the composition of its own membership is yet another example of “freedom of association in all realms”, which is owed to all “autonomous individuals and legitimate states”; golf clubs have a presumptive right to exclude others that “no one doubts” (2008, 114). Similarly, Michael Walzer concludes that the “appropriate analogy [for states] is with the club”, as both these entities have the right to regulate admissions, but not bar withdrawals (1984, 40). Like Wellman, Walzer takes for granted that states and clubs both have the ability to choose which members to admit. Much like clubs, countries have admissions committees that serve to establish “general qualifications, categories for admission and exclusion, and numerical quotas (limits)”. Non-members who meet these standards are then “taken in, with varying degrees of administrative discretion, mostly on a first-come, first-served basis” (40).

In likening states to clubs, Wellman and Walzer stop short of filling out the content of membership criteria. Their focus is simply that it is the *right* of club members to make those decisions. In Walzer’s words, “[i]n clubs, only the founders choose themselves (or one another); all other members have been chosen by those who were members before them. Individuals may be able to give good reasons why they should be selected, but no one on the outside has a right to be inside.” (41) This is not to deny that members’ admission decisions can be subject to moral criticism, but such criticism would have to appeal to the condition and character of the host countries, as well as the shared understandings held by *existing* member (41), rather than imposing on them external standards that they do not recognize. From here, we can see that Osterloh and Frey largely adopt a similar framework. Their characterisation of the state as a ‘club’ that one has to pay entry fees to join relies on an assumption shared by Wellman and Walzer: that states have the right to design with their own (more or less permissive) membership criteria.

At the same time, we should note that there are many different kinds of clubs. Some clubs are relatively easy to join. One such example might be my gym: like the

state that Osterloh and Frey envisage, all I might need to qualify for membership, aside from observing a basic set of rules, is to pay a fee. On the other hand, some clubs are relatively exclusive, such as university fraternities and sororities, or even church choirs. Certainly, you may attempt to apply, but admission is contingent on the judgments of existing members, whether they are rendered on your cool personality or singing ability. An extreme example of an exclusive club might be the Augusta National golf club. Women and African-Americans were deemed ineligible for membership in the past, and even today, membership remains invitation-only; you are unable to even apply unless an invitation is extended by an existing member. The pertinent question, then, is this: what kinds of clubs have European states *typically understood themselves to be*? Are they more like my gym, or like Augusta National?

It is instructive, I think, to look to what Ayelet Shachar has termed the ‘gate-keeping function’ of political membership. She highlights that one of the main purposes of states’ birthright and naturalisation laws is to create a property-like “system of rules governing access to, and control over, scarce resources”, including membership rights and their related benefits (in this case, the right to enter, take up residence, and work) (2009, 28). Membership boundaries, as they are commonly understood, function crucially to preserve *restricted access* to the community’s power and wealth (37). Shachar’s observation reminds us that states’ decisions about who to admit are guided by existing members’ tendency to jealously guard their resources (37). Read thus, if states are indeed like clubs, they are not a *permissive* club that allows non-members to pay for membership. They are far more like Augusta National and its invite-only policy that primarily serves to maintain exclusive access to the golf facilities. The golf club’s members only want to rub noses with individuals who come from equally elite backgrounds. They would most likely be horrified by the suggestion that *anyone* would be able to pay to join. It would be seen as a ‘cheapening’ of Augusta National membership even if the price was very high, and the person in question assured them that he would chip in generously for the continued maintenance of club facilities.

To be clear, I am not arguing that states *ought* to be treated as exclusive in this way. The point is, if we want to treat states like clubs, it bears recognition that they are generally unlike clubs whose membership is straightforwardly up for purchase. Think, for example, of the similarities between the entry fee system and “citizenship-by-investment programmes”, where a growing number of countries now offer tailor-made, exclusive, and expedited pathways for the world’s super-rich to acquire citizenship “quickly and simply, without any disruption to [their lives]” (Shachar 2018, 790). Both these policies allow non-citizens expedited access to the goods of membership by simply paying a fee. Saliently, in 2014, members of the European Parliament voted overwhelmingly in favour of a non-binding

resolution that criticised Malta's citizenship-by-investment scheme, stating that EU passports should not carry a 'price tag'.² By these lights, neither should the right to enter and live in the state. Even if the participation certificate does not carry the weight of full citizenship, it still permits access to the collective goods of society—access that many citizens wish to withhold from non-citizens.

Aside from potential resistance to commodification, there is another dimension to exclusive forms of club membership. As mentioned earlier, exclusive clubs like Augusta National frequently only admit members who meet certain *cultural* criteria, such as those who are recognised as having the same class background. Cultural considerations include one's mode of dress, speech, and shared social connections. Similarly, the kinds of new members that citizens seem willing to accept are those who are *like them* in some way—historically speaking, those who are recognised as “national or ‘ethnic’ relatives” (Walzer 1984, 41). By corollary, those they regard as foreign or alien are treated with suspicion and hostility. Recent research by Bansak et al indicates that, at least when it comes to asylum seekers, Europeans' public preferences over asylum seekers are significantly shaped by anti-Muslim bias even when evaluating legitimate asylum seekers who face persecution.³ These preferences seem to hold across the board, regardless of age, education, income, political ideology, and place of citizenship. To be sure, the same study shows that economic factors also play a role in shaping citizens' preferences. Citizens show a preference for migrants who are highly-skilled, suggesting that they value new members' capacity for economic contribution (ibid.). Yet these results do not indicate that payment of an entry fee and subsequent labour contributions would be *sufficient* for the willingness to accept migrants. Given the extent of anti-Muslim bias, it remains plausible that even economically active Muslim migrants might be disfavoured. Osterloh and Frey do acknowledge the presence of cultural considerations by suggesting that strong multicultural policies lower migrants' desire to integrate and consequently provoke hostility from citizens. This implies that citizens' attitudes might improve if migrants achieved higher levels of cultural integration. However, regardless of how willing migrants

2 The justification for this response, I suspect, would mirror one of Ayelet Shachar's objections to citizenship-by-investment programs: that they give rise to a transactional view of citizenship as just another good to be bought and sold, and therefore risk attracting “globetrotting well-heeled millionaire migrants who have paid for a passport but never taken on corresponding membership responsibilities”. Such persons, who fundamentally lack attachment and commitment to their new country, may simply defect if citizenship is no longer “profitable” by their books (Shachar 2018, 807).

3 Bansak/Hainmueller/Hangartner 2016, 2174, 2.

are to integrate, it is evident that citizens may already reject some of them on the basis of their cultural identities.

Overall, the internal critique shows that the entry fee system may not successfully defuse negative attitudes towards migrants even if it encourages economic participation and greater integration. It may worsen them through cheapening membership in the eyes of citizens and potentially admitting large numbers of migrants who are widely considered to be culturally threatening.

3.2 The External Critique: Who Can Pay to Work?

So far, my internal critique of the entry fee system has focused on explaining why, if states are clubs, they are simply not the kind of club that you can pay to join. My *external* critique is more radical: I argue that imposing a substantial entry fee on membership is impermissible if exclusion from membership deprives non-members of basic rights and interests. Furthermore, as I will show, measures aimed at equalising migrants' ability to afford membership cannot entirely resolve the problem.

It is undoubtedly commonplace for clubs to charge entry fees to non-members if they wish to access its collective goods. In cases where the entry fee is substantial, many persons may be *excluded* by their inability to pay. Such exclusion is not always morally neutral. As Sarah Fine has articulated, the “very act of excluding people may thwart their interests, either making them worse off than they are at present, or making them worse off than they would be otherwise, if they were left to act on their own plans and the group did not act to exclude them” (Fine 2010, 347). In line with this, it can be wrong for clubs to charge substantial entry fees to non-members when exclusion from membership deprives them of important rights or interests. Suppose that a patch of countryside, previously open to the public, is purchased by a private club which intends to reserve the land for the use of its members only (I draw on an example from Fine 2010, 347). And suppose also that one could, in theory, pay a fee to join the club and continue their daily rambles in the countryside without ado, but the fee is substantial enough that it precludes many ramblers from joining. Here, the ramblers are made worse off by their exclusion from the club, insofar as it blocks their interest in accessing the patch of land. Though this interruption to their daily walk seems closer to a trifling inconvenience than a significant rights-violation, matters change when the consequences of exclusion are much more serious—for example, if being unable to pay for membership deprives one of access to basic goods. We would think it terribly suspect, for example, if my getting treatment at the only hospital in the area was contingent on my paying a substantial fee to join a special ‘medical club’.

Much like the ‘medical club’, the consequences of exclusion from state membership often differ vastly from that of any ordinary club or cooperative, ranging far beyond the inability to access golf facilities or a patch of countryside. It is clear, for many would-be migrants, that exclusion from the state means exposure to continued danger, persecution, or impoverishment. What’s often at stake is their access to collective goods that ought not be understood as *benefits* per se, but rather, the baseline for human existence. We can therefore see a key distinction between states and clubs. Club memberships typically entitle us to desirable benefits that we could reasonably do without, but membership in the state may be *necessary* for a minimally decent life. The inability to pay a substantial entry fee could prove detrimental for many prospective migrants and their families.⁴

Osterloh and Frey anticipate this concern in two ways. First, they state that refugees will eventually have their fee refunded. As a result, many migrants who truly need membership, in order to protect their basic rights and interests, would not have to pay for it. Next, they respond directly to the worry that the only wealthy persons and families can afford the entry fee. They suggest a number of alternative financing options for those who cannot afford the entry fee on their own (2018). Would-be migrants can borrow money from banks or relatives, and can also be financed by private sponsors, humanitarian organisations, or firms looking for new employees. Governments could also offer loans to migrants on the basis of humanitarian reasons or their special skills (*ibid.*). There seems to be nothing wrong, in principle, with charging an entry fee if we can equalise non-members’ ability to pay for it.

Nevertheless, there remain grounds for caution. Even if refugees are able to obtain a refund in the future, like all other migrants, they must still find a way to obtain the money at the outset. In addition, given states’ tendency towards highly restrictive interpretations of who qualifies as a refugee, there may be migrants who are dependent on membership to protect their basic rights and interests, but remain ineligible for a refund because they are eventually deemed ‘economic migrants’. Others may anticipate a refund and budget scarce resources accordingly, only to find themselves ineligible for refugee status.

At the same time, even if alternative financing options are available for migrants who cannot afford the entry fee on their own, we must keep in mind the urgent conditions under which many people attempt to migrate. These may render them vulnerable to new forms of domination and unequal relationships, even

⁴ The combined costs of migration for families might be extraordinarily high. Another concern is that inability to pay the entry fee may encourage family separation, because migrants are unable to pay for every member at once.

if they do not resort to illegal smugglers.⁵ Under normal circumstances, we can imagine approaching the entry fee the same way we would any other expensive purchase. When planning to buy a car, for example, we could weigh up the possibilities: should we borrow money from a bank, or from a family member? We might undertake extensive research to discover our options and ensure that we choose the best one. There would also be room for testing out different alternatives and dealing with potential setbacks. For example, if, our loan application is eventually rejected by a bank, we could try reaching out to a distant family member instead.

Matters are considerably different, however, if we need the car *immediately*—when we desperately need to drive to another destination. In such cases, it is unlikely that we would have the space to perform careful deliberations, much less educate ourselves on the available options, or apply for schemes that have no guarantee of approval. Instead, we would pick the choice that is most likely to grant us the car, even if its terms ultimately disfavour us (e.g. a very expensive car rental) compared to the other options. Certainly, many migrations are planned over a period of time that can accommodate a process of careful deliberation. But many others are much more like the situation where we need a car *right now*. Given their urgency to leave, migrants may become vulnerable to predatory lending options; for example, agreeing to work at a firm for a much lower salary and longer hours than they would prefer, or agreeing to a high-interest bank loan, simply because these appear to be their only options. We must also keep in mind the consequences of debt and the unequal relationship it creates between the debtor and creditor over the period where the money is owed. For example, firms may acquire the capacity to interfere arbitrarily with the migrant. They can make unreasonable demands of the migrant whose entry they have paid for, and threaten to make them pay back the money if they do not comply. Even if the entry fee is financed seemingly unconditionally, we may also worry about the *debt of gratitude* that migrants may feel they owe to philanthropists and how this can be used to control or influence their future behaviour. In contrast, the threat of unequal relationships is not a burden that the wealthy have to bear.⁶

⁵ I am also concerned that pricing the entry fee *considerably higher* than the costs of illegal entry (Osterloh/Frey 2018, 18) would fail to stop migrants from entering illegally, simply because the illegal route still costs less. This would apply especially to refugees who cannot afford to pay the entry fee upfront, and are unaware of alternative financing options.

⁶ Perhaps these concerns could be effectively addressed if governments commit to providing all would-be migrants with low-interest loans under fair terms and conditions. Yet it is not obvious why governments would be motivated to do so, especially if the entry fee is being used to ensure their preferred numbers and distributions of migrants.

4 Immigration and Stakeholdership: An Alternative Principle

Up to this point, I have identified two main concerns with the entry fee system. Firstly, given how membership is commonly perceived to be exclusive, making migrants pay an entry fee would likely not allay Osterloh and Frey's worries about xenophobia and the rise of the far right in Europe. Secondly, charging a substantial entry fee may be impermissible if non-members are excluded from access to the goods they require for their fundamental rights and interests. The problem is not completely resolved by making alternative financing options available to those who cannot afford to pay, for reasons that I have explained above. Taken together, these concerns suggest that, in order to respond adequately to the European migration crisis, we need an alternative construal of *what membership is*. It is counter-productive to continue likening the state to a mere club or cooperative and allowing that comparison to guide immigration policy.

A more promising conception of membership lies in what Rainer Bauböck has termed the 'stakeholder principle' of membership. In stark contrast to the entry fee system, non-citizens do not become members upon the payment of a fee. Rather, they are entitled to membership on the basis of *certain facts about their lives* that tie them to the state. As Bauböck writes, "all those, and only those individuals, who have a stake in the future of a politically organised society have a moral claim to be recognised as its citizens and to be represented in democratic self-government" (2008, 4). Elsewhere, he suggests that "those and only those individuals have a claim to membership whose individual autonomy and well-being is linked to the collective self-government and flourishing of a particular polity" (2015, 825). Furthermore, as a group, "the individual rights and wellbeing of stakeholders are tied to those of other members because they all depend on the protection and public benefits provided by the same political institutions" (2008, 4). Notably, Bauböck is careful to emphasise the *non-voluntariness* of stakeholdership. In his words, stakeholdership is "not a matter of individual choice, but is determined by basic facts of an individual's biography, such as having grown up in a particular society, being a long-term resident there, or having close family members in another country where one does not presently reside" (ibid.) Importantly, neither does stakeholdership depend on the willingness of the state to grant it. Bauböck rejects the idea that the decision whom to admit as a member is a "matter of sovereign self-determination for each state" (ibid.). It is, in fact, a moral question whose answers should be determined by facts about individuals and their relationship to particular states.

Understood thus, the stakeholder principle has implications for present-day immigration policy (2008, 5). Bauböck argues that resident foreigners must enjoy the claim to be admitted as new citizens in the states that they have resided in long-term. It also generates a claim for first-generation emigrants and their minor children born abroad to retain and acquire citizenship respectively. These groups can “claim a stake in the polity’s future” precisely because their life-prospects have come to depend, or continue to depend, on “on that country’s laws and political course”. I believe, however, that accepting the stakeholder principle has much wider implications than the ones that Bauböck considers. Chiefly, it should also guide our approach towards would-be migrants who are seeking admission. Even if the stakeholder principle does not automatically generate a claim to full citizenship and accompanying voting rights for prospective migrants, as it might for long-term resident foreigners, it can still give rise to a *prima facie* claim to membership in at least the sense that Osterloh and Frey are concerned with: the ability to enter the state and gain access to its collective benefits. I will explain why.

There is little doubt, I think, that many would-be migrants have a *stake* in particular polities, insofar as their fundamental rights and interests have become inextricably linked to how they are treated by *that particular state*. To be sure, in order to qualify as stakeholders, it cannot simply be that membership would *benefit* them. For example, gaining membership in France would clearly benefit me; the ability to work there would enlarge the scope of my academic job opportunities and allow me to take indefinite vacations in the French Riviera. Yet this is clearly not what Bauböck has in mind. Being a stakeholder, on his account, means something like having *one’s fundamental rights and interests bound up with the future of a particular state*, to the extent that *they depend on its protection and public benefits*. For me to truly count as a ‘stakeholder’, there would have to be basic facts about my biography that tie me to France in this way.

Consider some possible biographical facts. Suppose that my original place of citizenship has dissolved into war-torn chaos that places my life in great danger. Suppose, also, that my family members who have managed to flee before me are now living in France, and I am desperate to be reunited with them. After gathering whatever remaining money I have and purchasing a ticket to France, I now wait anxiously at the border to see what the decision of the official will be. As a result of these life-events, it seems that I stand in a new relation to the French state; I have a new *stake* in it that I did not before. Fundamental aspects of my autonomy and well-being now depend on its willingness to grant me protection and access to public benefits. The same might apply if I am trying to escape poverty in my birthplace. When I try to cross the border into France, in search of the opportunities for a decent life, I am essentially at the *mercy* of the state; my arrival at the border, again, forges a new relation of dependency between me and France. In that mo-

ment, how they decide to treat me—whether it is allowing me to enter, or holding me in a detention centre, or turning me away—will determine whether my fundamental rights and interests are protected. The extension or denial of membership will make all the difference to what becomes of me.

The claim that at least some would-be migrants may count as stakeholders even prior to entry may raise a number of objections. To start with, is it true that these migrants have their fundamental rights and interests linked to the flourishing of a *particular* polity? For example, if someone is seeking refuge from imminent danger, or in search of better economic opportunities, it seems that they could enter *any* state that is able to satisfy those conditions. It is not clear why they should be regarded as having a stake in a particular state.

I agree that this may apply to certain cases. Some refugees' basic rights and interests may be adequately fulfilled by admittance to several different states. This severely weakens the claim that they have a stake in, say, France in particular. However, the fact that my needs can be met by several different states does not indicate that I lack stakes altogether. Even though I may only need one of them to take me in, I can still be understood as being *dependent on several states at once* for the protection of my basic rights and interests. By extension, I may have a small stake in several different polities. To illustrate this point, if I am drowning in a pool and only need one person to save me, it still makes sense to say that I am dependent on the crowd for my rescue. After all, up to the point where I am rescued, I have a stake in the actions of *each member of the crowd*. My life depends on what they each choose to do (or not do). Admittedly, if I have multiple small stakes in various different states, this creates a weaker obligation for each state to grant me membership, compared to a situation where I am almost completely dependent on a particular state. I am entitled to enter at least *one* state, but its identity is not determinate and ultimately depends on burden-sharing arrangements between the states in question.⁷

There may also be facts about other prospective migrants' lives that serve to bind them to a specific state over other potential receivers. This is because, as a result of those facts, their fundamental rights and interests can only be fulfilled, or are much more likely to be fulfilled by entering the state at hand. One example I have already considered is the presence of other family members in that state,

⁷ As I have acknowledged, a prospective migrant's stake in a specific polity may not be large enough to entitle them to *full* membership, compared to the stake a long-term resident has in it, but it could still lead to a *prima facie* claim to enter and work there for a significant period. I leave aside the question of whether all who have entered and started working in a state should eventually become entitled to full citizenship. My account of stakeholder membership can be accepted even by those with differing views on the matter.

as one's basic interest in reunion with immediate family members cannot be satisfied by entering any other state. Other relevant biographical facts may be their country's prior historical relationship between the receiving state, such that sizable numbers of migrants from their country already reside there, or the fact that the migrant's language is commonly spoken in the receiving state and less so in neighbouring ones. I take it that the presence of existing migrant networks, as well as the ability to communicate easily in the receiving state, would make it much easier for the migrant to pursue their basic rights and interests, compared to a situation where there is scarcely anyone from the same country who can help them navigate their new environment, and they must learn a new language to be understood. Indeed, these three facts are often co-present to various degrees, as in the case of Germany and Turkish migrants, or France and Algerian migrants.

A second objection might go like this: don't migrants *voluntarily* place themselves at the mercy of certain states? If so, this seems to contradict Bauböck's assertion that stakeholderhood is not a matter of individual choice, but rather, a result of *non-voluntary* facts about our lives. Above, I have sought to explain how some non-voluntary facts about would-be migrants' biographies (such as having close family members in the country) can forge a connection between them and a particular receiving state. Yet it may be protested that, ultimately, migrants still make the *choice* to leave their home countries. Certainly, we can recognise a category of forced migrants—people forced to leave their homes by circumstances so dire that they could not be said to have 'chosen' to. But many others can reasonably be thought of as having exercised a choice. Surely nobody should be considered a stakeholder of a particular state just because they decided to travel there.

It is quite obvious from Bauböck's own account, however, that stakeholderhood is not *entirely* non-voluntary. Stakeholderhood does not demand that we cannot have played a hand in bringing about the relevant biographical facts that entitle us to it. Take, for example, his assertion that long-term residents must be recognised as stakeholders and granted membership accordingly. Presumably, many of those long-term residents made an initial *voluntary* choice to enter and work in the receiving state. Yet, over time, their basic rights and interests become deeply intertwined with its functioning and flourishing. The profound connection between the two is now *non-voluntary* in the sense that it cannot be wished away. By analogy, I may have made an initial voluntary choice to enroll at a particular university. All the same, once I have settled into student life, the university's administrative decisions can have an enormous impact on my life that is beyond my control. This is because my membership in the university has become *central* to my fundamental life-prospects, which are now contingent on the successful completion of my education. I may also be dependent on the university for my part-time job and accommodation. Consequently, I cannot simply unenroll from the university

overnight and hope to move on immediately; the deep connection between me and my university that was forged by my initial voluntary choice cannot be easily severed. Similarly, whether I like it or not, as a long-term resident, the state's potential decision to put an end to my visa category will wreak havoc on my life, given that my job, housing, or personal relationships are now tightly bound up with my ability to continue living there. A decision to bar long-term residents from accessing basic healthcare would be comparably devastating to me. For these reasons, when Bauböck describes stakeholdership as non-voluntary, he cannot be referring to the non-voluntariness of long-term residents' initial decision to live and work in the receiving state. Instead, what he is referring to are *current* facts about their lives that render them dependent on the state and its future decisions in a way that is beyond their control.

How, then, does this idea of non-voluntariness apply to prospective migrants? Like in the case of the long-term residents, there may be an initial voluntary decision to migrate. All the same, as a result of that initial decision, a bond between the migrant and the state is created—a new set of biographical facts that tie their individual rights and interests to the decisions of that *particular* state will emerge. For example, it can now be true that the state's decision to turn away a migrant will profoundly shape the remainder of their lives by forcing them to return to a war-torn land, subjecting them to the traumatising experience of long-term detention, or permanently depriving them of the opportunity to be reunited with their family.

In sum, I have argued that a revised stakeholder principle is a plausible alternative to treating states as clubs that can permissibly charge non-members entry fees. Rather than making membership contingent on the payment of an entry fee, we should recognise that migrants can be entitled to membership on the basis of relevant biographical facts. Interestingly, migrants can have those entitlements even if they have yet to be admitted to the state. I now conclude by briefly considering the policy implications of the stakeholder principle and how they differ from Osterloh and Frey's proposal.

5 Conclusion

In my paper, I provided an internal and external critique of Osterloh and Frey's entry fee immigration system. On one hand, if clubs are an appropriate analogy for the state, states are typically perceived as clubs that are too exclusive for membership to be paid for. On the other hand, because exclusion deprives many non-members of fundamental rights and interests, it may be impermissible for the

state to charge a substantial entry fee. Having identified these issues, I suggested that we should abandon the notion of the state as a club. Membership should be guided by a stakeholder principle, where non-citizens can be entitled to membership on the basis of certain facts, independent of the polity's willingness to accept them.

What, then, are the consequences for European immigration policy? I believe that the stakeholder principle would prescribe an immigration policy significantly more open than the entry fee system. Non-citizen stakeholders should not have to pay an entry fee in order to enter and work in receiving states. By contrast, they would simply have to demonstrate that their basic rights and interests are inextricably linked to the state in question. As I have explained, some migrants are best understood as having a small but significant stake in several different states at once. Their level of stakeholdership may be small enough that they do not have a claim to enter and reside in a particular state, but it is significant enough that they must be received by at least one. This seems to apply to many refugees, as well as economic migrants who are attempting to exit poverty. Yet, as I have also discussed, certain facts about the migrant can give them a considerably larger stake in a particular state if those relate to the state's ability to protect their fundamental rights and interests. The basic interest of family reunion, for example, may only be fulfilled by entering a particular state.

It is regrettably beyond the scope of my current paper to consider how claims to stakeholdership can be fairly and non-arbitrarily assessed, or how competing claims ought to be weighed up against each other. I want to note, all the same, that the stakeholder principle seems compatible with a more limited entry fee system where would-be migrants who lack a stake in the polity could still pay a fee to enter. In practice, it also shares some similarities with the entry fee system. Namely, migrants should be allowed to participate in the economy soon after entry, as well as gain access to the state's collective goods, like healthcare and education.

Even if it remains unclear how the stakeholder principle would be best implemented, the ongoing migration crisis has shone the spotlight on the severe consequences of exclusion, and creates an imperative for Europe to undergo a paradigm shift. Membership in European states can no longer be imagined as an exclusive form of club membership, contingent on migrants successfully clearing the obstacles that members have set. Naturally, the more permissive view of membership that the stakeholder principle prescribes would be met by serious public opposition, but we should not underestimate the impact that the design of political institutions and public justification of their fairness can have on citizens' attitudes to-

wards membership and their willingness to share it.⁸ States must be careful to design political institutions that reflect the significance of stakeholdership, as well as emphasise the stakes that citizens *and* migrants share in their flourishing, regardless of their wealth or cultural background. Above all, they must challenge the widely-shared belief that states are like mere clubs or cooperatives.

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⁸ In Pevnick 2009, Ryan Pevnick persuasively defends the view that the “effects of diversity depend on the institutional context in which it is experienced”, rather than on characteristics of the population (2009, 149).