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## **Free movement and social citizenship: towards a politically constructed conception of solidarity**

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### **Abstract**

The impact of freedom of movement in the EU on the restructuring of national social citizenship has long been a subject of vigorous debate in both political and academic discourses. This chapter brings in the insights of critical citizenship theory to move beyond the individualistic approach to transnational rights in liberal cosmopolitanism on one hand and the static approach to solidarity in the defence of national closure on the other. Critical citizenship studies focus on acts, performances, and claim-makings outside formal institutions of participations as processes of political subjectivisation through which the citizen subject is brought into being. Rather than a fixed collection of social rights and a finalised national project, social citizenship can be understood as an open-ended process shaped by ongoing collective struggles over needs and social inclusion. Relations of solidarity and reciprocity can emerge in such processes rather than a precondition external to them. The article then considers the political significance of non-institutionalised forms of contestation over the social rights of migrants that resist and challenge the individualist and discriminatory logics in the governance of free movement. As practices geared towards constructing new solidaristic relations and identities across borders, these acts of (social) citizenship articulate an alternative understanding of mobility as social and spatial practices that enable collective engagements and set in motion inclusive forms of solidarity that traverse the boundaries of the national, the European, and the legal.

## Introduction: Free Movement and Social Citizenship in the EU

The relationship between freedom of movement and the evolution of variegated citizenship regimes in the European Union (EU) has long been a subject of vigorous debate in both political and academic discourses. Brexit, the rise of radical right parties across Europe advancing anti-immigration and Eurosceptic agendas, and the restrictive interpretation of the social rights of economically inactive citizens in recent citizenship jurisprudence of the Court of Justice of the European Union (CJEU) have all contributed to the perception that freedom of movement is increasingly 'under attack'<sup>1</sup> from both the left and the right. While right-wing populist parties in Europe typically combine their support for the national welfare regime with nativist resentment against immigrants from both within and outside the EU,<sup>2</sup> some observers from the left have also been concerned with the possible detrimental impact of the European regime of free movement and immigration in general on the norms and mechanisms of national solidarity.<sup>3</sup>

One central aspect of the debate is the perceived tension between open borders and social solidarity that underpins redistributive institutions previously established at the national level, known as a 'progressive dilemma'<sup>4</sup> in migration and welfare research. In a sense, EU legislation and jurisprudence on free movement and equal treatment offer a 'multilevel and transnational answer' to the progressive dilemma by conferring transnational social rights on individual mobile citizens and thereby 'rescaling solidarity'<sup>5</sup> beyond the nation state. From a liberal cosmopolitan perspective, the emergence of a 'rights-based approach to freedom of movement' paves the way towards constructing a European political community of equal citizens as rights bearers<sup>6</sup> or enables individual emancipation from the domination of national boundaries.<sup>7</sup> However, from a republican or communitarian perspective on citizenship that emphasises democratic solidarity, the rights-based and individualist approach to forging transnational citizenship has been considered inadequate or even problematic.<sup>8</sup> Höpner and Schäfer, for instance, argue that 'while

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1 F. de Witte, R. Bauböck and J. Shaw (eds.), 'Freedom of movement under attack: is it worth defending as the core of EU citizenship?', EUI Working Papers, 2016.

2 C. Mudde, *Populist Radical Right Parties in Europe* (Cambridge: Cambridge University Press, 2007).

3 A. J. Menéndez, 'European citizenship after Martínez Sala and Baumbast: Has European law become more human but less social?', ARENA working paper, 11 June 2009, available at: [http://www.sv.uio.no/arena/english/research/publications/arena-working-papers/2001-2010/2009/WP11\\_09\\_Online.pdf](http://www.sv.uio.no/arena/english/research/publications/arena-working-papers/2001-2010/2009/WP11_09_Online.pdf); M. Höpner and A. Schäfer, 'Embeddedness and regional integration: waiting for Polanyi in a Hayekian setting', *International Organization*, 66 (2012), 429-455, at 429; W. Streeck, 'Exploding Europe: Germany, the refugees and the British vote', 31 SPERI paper, 2016, available at: <http://speri.dept.shef.ac.uk/wp-content/uploads/2016/09/SPERI-Paper-31-Wolfgang-Streeck-Exploding-Europe.pdf>.

4 O. Parker, 'Critical political economy, free movement and Brexit: beyond the progressive's dilemma', *The British Journal of Politics and International Relations*, 19(3) (2017), 479-496, at 479.

5 R. Bauböck, 'Why liberal nationalism does not resolve the progressive's trilemma: comment on Will Kymlicka's article: "Solidarity in diverse societies"', *Comparative Migration Studies*, 4(10) (2016), 1-6, at 5.

6 W. Maas, *Creating European citizens* (Lanham, MD: Rowman & Littlefield, 2007), p. 27.

7 F. de Witte, 'Emancipation through law?', in L. Azoulay, S. B. des Places and E. Pataut (eds.), *Constructing the Person in EU Law: Rights, Roles, Identities* (Oxford: Hart Publishing, 2016), pp.15-33.

8 M. Everson, 'A very cosmopolitan citizenship: but who pays the price?', in M. Dougan, N. Nic Shuibhne and E. Spaventa (eds.), *Empowerment and Disempowerment of the European Citizen*

court rulings can strengthen individual rights, they cannot create the norms of reciprocity and solidarity that underpin redistribution'.<sup>9</sup> The ambiguous attitudes towards the welfare rights of economically inactive EU citizens in EU (case) law, which are characterised by an oscillation between favouring the individual citizen's right to equal treatment and the member state's interests in protecting national systems of social cohesion,<sup>10</sup> have further complicated the picture.<sup>11</sup> Scholars hold that the restrictive interpretation of the conditionality for economically inactive citizens to access benefits exemplifies the logic of 'earned citizenship' that underscores the 'individual citizen-outsider's responsibility to' contribute to the host society and may reinforce social exclusion.<sup>12</sup>

This chapter seeks to bring in the insights of critical citizenship theory to reflect on the relationship between free movement, social citizenship and solidarity. Critical citizenship studies focus on acts, performances and claim-makings outside formal institutions of participations as processes of political subjectivisation through which the citizen subject is brought into being. Rather than a fixed collection of social rights, social citizenship can be understood as a 'fluctuating reality' shaped by relations of social forces<sup>13</sup> and open-ended collective struggles for 'translating' needs into rights.<sup>14</sup> This approach also helps us rethink the concept of solidarity, a term frequently referred to in public and political discourses on citizenship and migration, the meaning of which is nonetheless not always specified. Gould distinguishes between a 'classic' form of intragroup solidarity that characterises a relationship 'binding all the members of a single cohesive group' and a new notion of transnational solidarity based on 'overlapping networks'.<sup>15</sup> In the national context, solidarity implicates a notion of shared responsibility that has become institutionalised to varied degrees through social policies and redistributive mechanisms of the

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(Oxford: Hart Publishing, 2012), pp. 145-167; A. Somek, *The Cosmopolitan Constitution* (Oxford: Oxford University Press, 2014); R. Bellamy, 'A duty-free Europe? What's wrong with Kochenov's account of EU citizenship rights', *European Law Journal*, 21(4) (2015), 558-565.

<sup>9</sup> M. Höpner and A. Schäfer, 'Embeddedness and regional integration', p. 430.

<sup>10</sup> D. Thym, 'The elusive limits of solidarity: residence rights of and social benefits for economically inactive Union citizens', *Common Market Law Review*, 52(1) (2015), 17-50.

<sup>11</sup> For the application of the EU law on free movement and welfare rights in member states administrations, see, e.g., A. Heindlmaier and M. Blauburger, 'Enter at your own risk: free movement of EU citizens in practice', *West European Politics*, 50(6) (2017), 1198-1217 and D. S. Martinsen, G. Pons Rotger and J. S. Thierry, 'Free movement of people and cross-border welfare in the European Union: dynamic rules, limited outcomes', *Journal of European Social Policy* 29(1) (2019), 84-99.

<sup>12</sup> D. Kramer, 'Earning social citizenship in the European Union: free movement and access to social assistance benefits reconstructed', *Cambridge Yearbook of European Legal Studies*, 18 (2016), 270-301, at 270; D. Schiek, 'Perspectives on social citizenship in the EU: from status positivus to status socialis activus via two forms of transnational solidarity', in D. Kochenov (ed.), *EU Citizenship and Federalism: The Role of Rights* (Cambridge: Cambridge University Press, 2017), pp. 341-370; E. Spaventa, 'Earned citizenship – understanding Union Citizenship through its scope', in Kochenov (ed.), *EU Citizenship and Federalism*, pp. 204-225.

<sup>13</sup> É. Balibar, 'Antinomies of citizenship', *Journal of Romance Studies*, 10(2) (2010), 1-20, at 10.

<sup>14</sup> H. Dean, 'The translation of needs into rights: reconceptualising social citizenship as a global phenomenon', *International Journal of Social Welfare*, 22 (2013), S32-S49.

<sup>15</sup> C. C. Gould, 'Transnational solidarities', *Journal of Social Philosophy*, 38(1) (2007), 148-164, at 148, see also Chapter 2.

welfare state. Beyond the national community, the idea of (transnational) solidarity is often associated with looser networks of actions and discourses in support of distant others.

While distinguishing between relatively 'thick' and 'thin' forms of solidarity is analytically useful for discussing issues such as global justice and transnational social movement, it is also important to note that solidarity emerges as a way to 'imagine commonality' and 'negotiate difference in heterogeneous struggles'<sup>16</sup> also within the national context. The sources of national solidarity should not be reduced to a common membership based on categories such as cultural and ethnic similarity and 'somehow anterior to political action or its legitimation'.<sup>17</sup> A politically constructed conception of solidarity can be understood in two dimensions. First, it implies that solidarity emerges in the process of 'emancipatory political action rather than its indispensable condition of possibility'.<sup>18</sup> Second, it also emphasises that, rather than simply gestures of sympathy, solidarity movements produce a space for resistance within increasingly transnationalised structures of power relations. For Brunkhorst, 'joining together in common action against the proliferation' of 'hegemonic global laws' is a potent source of global solidarity.<sup>19</sup> With regard to migration, solidarity practices are transnational in nature not only because the networks of support are geared towards those without formal membership of the respective national community (namely citizenship), but also because they are enacted against racialised border regimes that routinely produce violence, illegality and precarity.

There has been an increasing interest in examining and conceptualising the politics of solidarity among scholars of migration and citizenship studies.<sup>20</sup> This literature, however, has been focused mainly on movements of solidarity with undocumented migrants, refugees and asylum seekers rather than legal migrants. Whereas, the debate on free movement and social citizenship tends to treat solidarity more as an established common identity that underpins redistributive social policies than relationalities emerged from political practices. To bridge this gap, this chapter considers how a politically constructed understanding of solidarity could shed light on questions of legal migration and social rights, specifically within the framework of EU free movement. I argue that comprehending rights and solidarity as co-occurrent in political actions allows us to move beyond the individualist approach to transnational rights in liberal cosmopolitanism and the static approach to solidarity in the defence of national closure. Other conceptual tools have been proposed to think constructively about the tension between economic integration, social solidarity and democratic citizenship in the EU such as Schiek's socially

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16 M. Tazzioli and W. Walters 'Migration, solidarity and the limits of Europe', *Global Discourse: An Interdisciplinary Journal of Current Affairs*, 9(1) (2019), 175–190, at 179.

17 C. J. Calhoun, 'Imagining solidarity: cosmopolitanism, constitutional patriotism, and the public sphere', *Public Culture*, 14(1) (2002), 147–171, at 156.

18 L. Ypi, 'Politically constructed solidarity: the idea of a cosmopolitan avant-garde', *Contemporary Political Theory*, 9(1) (2010), 120–130, at 121.

19 H. Brunkhorst, *Solidarity: from Civic Friendship to a Global Legal Community* (Cambridge, MA: MIT Press, 2005), p. xi.

20 E.g. I. Ataç, K. Rygiel and M. Stierl, 'Introduction: the contentious politics of refugee and migrant protest and solidarity movements: remaking citizenship from the margins', *Citizenship Studies*, 20(5) (2016), 527–544; M. Stierl, 'Contestations in death – the role of grief in migration struggles', *Citizenship Studies*, 20(2) (2016), 173–191; Tazzioli and Walters, 'Migration, solidarity and the limits of Europe'.

embedded constitutionalism<sup>21</sup> and Blokker's proposal on a 'bottom-up constitutional order'.<sup>22</sup> This chapter contributes to this line of inquiry by drawing attention to largely non-institutionalised avenues for reconstructing and enacting social citizenship through struggles over mobility. Mobilisations centred on the social rights of EU migrants (and beyond) both challenge the neoliberal political economy of free movement and construct new forms of solidarity across a plurality of boundaries.

The article is structured as follows. It starts by reviewing criticisms of EU free movement that are centred on democratic boundedness and analyses of market citizenship. They hence point to the limits of the individualistic approach to supranational rights, the negative implications of economic integration for labour standards, and regulatory changes that deepen the precarity of vulnerable migrants and atypical workers. I then illuminate how critical citizenship theory could contribute to the debate by offering a perspective on social citizenship as a contingent crystallisation of relations of social forces within ongoing processes of political struggles rather than a finalised national project. In the last section, the article considers two interrelated fields of contestation that challenge the institutional configurations of free movement – one focused on social inclusion and the other industrial citizenship – and how they bear upon the notion of solidarity across borders. I argue that the contestations politicise the social question in the transnational space and establish relations of solidarity and reciprocity across various boundaries.

### Free Movement and its Critics: Democratic Boundaries and (Stratified) Market Citizenship

Having emerged as an initiative to facilitate the circulation of goods, capital and workers in building the common market, free movement has now evolved into a defining character of and an essential right associated with EU citizenship – listed as the first right enjoyed by Union citizens in Article 20(2) of the Treaty on the Functioning of the European Union (TFEU). Although free movement of persons in earlier periods were restricted to workers or economically active citizens, its gradual decoupling from the mobile citizen's economic status through Directive 2004/38/EC and the CJEU's jurisprudence has been considered instrumental for advancing the normative and political dimensions of EU citizenship.<sup>23</sup> Moreover, the project of constructing Union citizenship through free movement entails that the latter should not merely amount to the right to travel freely to another country, but also involve 'the enjoyment of a legal status' that confers on the mobile citizen the right to be treated equally without discrimination.<sup>24</sup> In the scenario of international migration, precarious migrant workers are often forced to accept a

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21 D. Schiek, 'Re-embedding economic and social constitutionalism: normative perspectives for the EU', in D. Schiek, U. Liebert and H. Schneider (eds.), *European Economic and Social Constitutionalism after the Treaty of Lisbon* (Cambridge: Cambridge University Press, 2011), pp. 17-46.

22 P. Blokker, 'Constitutional alternatives to the crisis: a political-sociological approach to European "anti-politics"', in H.-J. Trenz, C. Ruzza and V. Guiraudon (eds.), *Europe's Prolonged Crisis: the Making and Unmaking of a Political Union* (London: Palgrave, 2015), pp. 63-82, at 76.

23 D. Kostakopoulou, 'Ideas, norms and European Citizenship: explaining institutional change', *The Modern Law Review*, 68(2) (2005), 233-267.

24 S. I. Sanchez, 'Free movement as a precondition for integration of third-country nationals in the EU', in E. Guild, K. Groenendijk and S. Carrera (eds.), *Illiberal Liberal States. Immigration, Citizenship and Integration in the EU* (Farnham: Ashgate, 2009), pp. 205-219, at 206.

'trade-off' between their mobility (entry to the labour market of the host country) and the rights available to them, known as a 'numbers versus rights' dilemma in temporary migration programmes. As Dauvergne and Marsden have pointed out, the ideology of temporary labour migration takes advantage of the subordinate position of migrant workers and frames their subordination as somehow 'natural and inevitable'.<sup>25</sup> Mobility without equal treatment hence reinforces unequal employment relations in the labour market and facilitates the exploitation of migrant labour whose profitability is derived from vulnerable legal status.

It is against this background that the implementation of free movement begs critical questions regarding the portability of social rights and the boundaries of national solidarity. On the one hand, the principle of equal treatment under conditions of cross-border mobility offers an opportunity to construct transnational social citizenship through 'the universalist aspirations of European law'.<sup>26</sup> One of the best known formulations of such an aspirational universalism is from the Grzelczyk case: 'Union citizenship is destined to be the fundamental status of nationals of the Member States, enabling those who find themselves in the same situation to enjoy the same treatment in law irrespective of their nationality, subject to such exceptions as are expressly provided for.'<sup>27</sup> On the other hand, however, the institutional framework of free movement is also marked by ambiguities and contradictions that pose challenges to democratic citizenship in both normative and practical terms. There has been a vast literature on the limitations of the ways in which free movement, both as citizenship rights and as market freedoms, is governed in EU law and political economy.<sup>28</sup> This section briefly reviews two interrelated theses emerged in the criticisms: the question of democratic boundedness and the stratification of market citizenship.

The normative assumption that democratic citizenship demands certain forms of territorial and membership closure can be defended from liberal, republican and social democratic (redistributive) perspectives. Within the debate on free movement and transnational citizenship in the European context, the latter two perspectives have offered most pertinent criticisms of the liberal cosmopolitan approach that emphasises individual rights and autonomy beyond national boundaries. In an earlier intervention, Bellamy articulates a republican conception of citizenship based on belonging, rights, and participation, and argues that the attempt to develop belonging at the European level 'from an attachment to' supranational rights would be neither plausible nor desirable.<sup>29</sup> In contrast to the transcendental view of rights as moral claims, Bellamy's political constitutionalism indicates that rights do not lie outside politics but requires 'democratic

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25 C. Dauvergne and S. Marsden, 'The ideology of temporary labour migration in the post-global era', *Citizenship Studies*, 18(2) (2014), 224-242, at 234.

26 Everson, 'A very cosmopolitan citizenship', p. 148.

27 Case C-184/99.

28 J. E. Dolvik and J. Visser, 'Free movement, equal treatment and workers' rights: can the European Union solve its trilemma of fundamental principles?', *Industrial Relations Journal*, 40(6) (2009), 491-509; I. Wagner and N. Lillie, 'European integration and the disembedding of labour market regulation: transnational labour relations at the European Central Bank construction site', *JCMS: Journal of Common Market Studies*, 52(2) (2014), 403-419; Kramer, 'Earning social citizenship in the European Union'; Schiek, 'Perspectives on social citizenship in the EU'.

29 R. Bellamy, 'Evaluating Union citizenship: belonging, rights and participation within the EU', *Citizenship Studies*, 12(6) (2008), 597-611, at 597.

justification' via a political, democratic process.<sup>30</sup> The republican perspective thus stresses on the reciprocity between rights and duties as well as the role of 'political obligations' to democratic structures of the member states in realising the 'status of citizens as equal rights bearers'.<sup>31</sup> In legal scholarship, the implications of the CJEU's judicial decision making for the democratic legitimacy of the EU and redefining the relationship between citizens and states have also been questioned.<sup>32</sup> According to Everson, the 'universalist impulses' of the Court's jurisprudence that aim to facilitate market freedoms and expand the scope of transnational rights for citizen free movers fail to acknowledge the particularism of citizenship traditions developed in bounded communities and hinder the redistributive dimension of national citizenship.<sup>33</sup> For critics, the problem thus concerns not only the difficulty in envisioning a political understanding of citizenship as democratic self-governance rather than the enjoyment of individual rights beyond the national community, but also the challenges of open borders to redistributive social rights, which from the conventional point of view are particularly dependent on bounded solidarity that seems to be the exclusive territory of the national community.<sup>34</sup>

This leads us to another, related theme in the critical literature. In both legal and political economic research, it has been argued that the governance of free movement in the EU produces a neoliberal market citizenship with the construction of the citizen as homo economicus at its very centre<sup>35</sup>. Somek contends that the Court's jurisprudence renders citizenship a 'resource' and freedom a 'freedom of choice in the private sphere', such as 'a place to receive an education, to spend one's retirement years',<sup>36</sup> and above all to seek employment opportunities. In Dani's view, when citizens are perceived of primarily as homo economicus, workers' rights are no longer 'meant to protect the individual from the risks of markets' but to offer them opportunities to participate in transnational markets.<sup>37</sup> It needs to be pointed out that not all forms of worker mobility are considered a matter of citizenship rights and adjudicated on the basis of Article 20 of the Treaty and Directive 2004/38/EC. Labour mobility may also be governed as an element of market freedoms (free movement of service and freedom of establishment), and it is this aspect of the Court's judicial decision making that has been especially condemned for compromising

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30 R. Bellamy, 'Rights as democracy', *Critical Review of International Social and Political Philosophy*, 15(4) (2012), 449-471, at 449.

31 Bellamy, 'A duty-free Europe?', p.558.

32 Menéndez, 'European citizenship after Martínez Sala and Baumbast'; A. Somek, 'Solidarity decomposed: being and time in European citizenship', The University of Iowa Legal Studies Research Paper, 13 June 2007; Everson, 'A very cosmopolitan citizenship'.

33 Everson, 'A very cosmopolitan citizenship'.

34 A. Somek, 'From workers to migrants, from distributive justice to inclusion: exploring the changing social democratic imagination', *European Law Journal*, 18(5) (2012), 711-726.

35 D. Kramer, 'From worker to self-entrepreneur: the transformation of homo economicus and the freedom of movement in the European Union', *European Law Journal*, 23(3-4) (2017), 172-188; M. Dani, 'The subjectification of the citizen in European public law', in L. Azoulay, S. B. des Places and E. Pataut (eds.), *Constructing the Person in EU Law: Rights, Roles, Identities* (Oxford: Hart Publishing, 2016), pp. 55-88. For a summary of criticisms of open immigration regimes in the political economy literature, see Parker, 'Critical political economy, free movement and Brexit'.

36 Somek, *The Cosmopolitan Constitution*, p. 205.

37 Dani, 'The subjectification of the citizen', p. 63.

existing structures of national social solidarity. In the much-discussed Laval case,<sup>38</sup> for example, the Latvian workers posted to Sweden were not excising their citizenship rights of free movement in the eye of the law; their mobility was rather attached to the employer's freedom of providing services across borders. The Court held that any restrictions on the implementation of free movement must be proportionate in the light of legitimate objectives such as the protection of fundamental rights. Given that the Swedish law does not lay down a minimum wage, forming 'a national context characterised by a lack of provisions ... which are sufficiently precise and accessible',<sup>39</sup> it found that the negotiations on wage the trade unions sought to advance did not constitute a legitimate restriction on market freedoms. This decision and other cases involving collective bargaining and the employment of foreign workers have received wide-ranging criticism, which often point to the neoliberal rationality of EU economic governance and the prioritising of supranational rules at the cost of downplaying national welfare models. In other words, observers from the left worry that the opening of labour market and welfare borders leads inevitably to social dumping in host countries.

Whereas, if we look at the implications of cross-border mobility from the perspective of the migrants, especially those in precarious employment and the 'economically inactive', the market citizenship engendered by the European regime of free movement is more stratified than universalist or cosmopolitan. The degree of protection enjoyed by EU migrants is conditioned by legal categories, employment forms and socio-cultural mechanisms of bordering (for example, the social exclusion of the Roma people). It is worth noting that neither the legislative instruments nor the case law has unequivocally allowed unconditional access to social benefits for mobile EU citizens.<sup>40</sup> The free movement directive provides that member states may deprive the right to free movement from Union citizens on grounds of 'public policy, public security or public health'. This conditionality rule mainly affects the rights of the groups of people who have already been marginalised and criminalised in their host societies.<sup>41</sup> Recent regulatory changes in the eligibility of worker status and case law on the rights of economically inactive citizens to social benefits<sup>42</sup> have brought in focus the increasing stratification of social citizenship, which must be 'earned' by EU migrants through assuming their 'individual responsibility to fulfil the economic, social and cultural conditions of membership'.<sup>43</sup> In the controversial Dano case, the supranational Court states that a Union citizen can claim equal treatment 'only if his or her residence ... complies with the conditions for lawful residence' laid down in the free movement directive. The retrenchment has been criticised not only for contributing potentially to the social

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38 C. Woolfson, J. Fudge and C. Thörnqvist, 'Migrant precarity and future challenges to labour standards in Sweden', *Economic and Industrial Democracy*, 35(4) (2014), 695-715; A. Bücken and W. Warneck (eds.), *Reconciling fundamental social rights and economic freedoms after Viking, Laval and Rüffert* (Baden-Baden: Nomos, 2011).

39 C-341/05, para. 110.

40 Thym, 'The elusive limits of solidarity'.

41 J. S. Gehring, 'Free movement for some: the treatment of the Roma after the European Union's eastern expansion', *European Journal of Migration & Law*, 15(1) (2013), 7-28; O. Parker, 'Roma and the politics of EU citizenship in France: everyday security and resistance', *Journal of Common Market Studies*, 50(3) (2012), 475-491.

42 G. Alberti, 'A new status for migrant workers: restrictions of the free movement of labour in the EU', *Mondi Migranti*, 3 (2017), 33-49.

43 Kramer, 'Earning social citizenship'.

exclusion of vulnerable migrant citizens in their host society, but also for undermining the coherence of EU law.<sup>44</sup> Indeed, scholars warn that the increasing conditionality of equal treatment means that the status of EU citizenship resembles more that of a migrant than that of a citizen.<sup>45</sup>

To summarise, the complex impact of free movement on both national solidarity and the prospect for transnational social citizenship has been subject to various criticisms. Even though commentators might share similar critiques of neoliberal market citizenship and agree on the importance of the redistributive dimension of citizenship, some stress on democratic boundedness while others defend the norm of equality in transnational settings. On the one hand, it has been argued that the expansive approach to transnational citizenship through individual rights might undermine the structure of national solidarity or fails to address the question of democratic legitimacy. On the other hand, the nationalist approach that prioritises the member state's interest in maintaining welfare boundaries is criticised for enhancing civic stratifications and betraying the normative principles of EU citizenship. At the theoretical level, the debate highlights the tension between the republican concept of citizenship as democratic practice, the cosmopolitan aspiration for transnational rights and open borders, and the social democratic ideal of redistributive justice. In the following sections, I reflect on how critical citizenship theory could help us rethink the relationship between rights, solidarity and social citizenship, whereby recognising the transformative potential of mobility/migrancy to open up a space for constructing transnational solidarity.

### Social Citizenship Revisited: Rights, Solidarity and Democratic Contestations

Theories of citizenship generally approach the concept in terms of several interrelated components or dimensions: status, rights, practice and belonging/identity. As noted earlier, different normative traditions differ in their emphases on each of the components: the liberal tradition analyses citizenship primarily as legal status and rights, whereas the republican tradition conceptualises citizenship as practice and civic identity, and the communitarian tradition emphasises forms of belonging not limited to political identity. Over the last few decades, however, critical scholarship on citizenship has been pushing the boundary of the field beyond studying formal rights, institutional participations and national belongings, redefining this key concept of modern politics through a range of new theoretical lenses such as insurgency, governmentality, ambivalence or performative claim-making.<sup>46</sup>

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44 N. Nic Shuibhne, 'Limits rising, duties ascending: the changing legal shape of Union citizenship', *Common Market Law Review*, 52(4) (2015), 889-937.

45 Spaventa, 'Earned citizenship'.

46 E.g. J. Holston, *Insurgent Citizenship: Disjunctions of Democracy and Modernity in Brazil* (Princeton, NJ: Princeton University Press, 2008); G. Procacci, 'Governmentality and citizenship', in K. Nash and A. Scott (eds.), *The Blackwell Companion to Political Sociology* (Oxford: Blackwell Publishing, 2004), pp. 342-351; A. McNevin, 'Ambivalence and citizenship: theorising the political claims of irregular migrants', *Millennium – Journal of International Studies*, 41(2) (2013), 182-200; I. Bloemraad, 'Theorising the power of citizenship as claims-making', *Journal of Ethnic and Migration Studies*, 44(1) (2018), 4-26.

Critical citizenship studies shift focus away from the existing distribution of status and rights to the processes – ‘those constitutive moments, performances, enactments and events’<sup>47</sup> – through which the ‘outsiders’ constitute themselves as political beings and hence citizens. One productive conceptual and methodological tool that has been developed in this direction is ‘acts of citizenship’.<sup>48</sup> Isin argues that the category of acts differs from that of ‘practices’, as the latter is a privilege or obligation of someone who is already recognised as a citizen, whereas the former is staged in the very making of citizenship.<sup>49</sup> In other words, ‘acts produce actors that do not exist before acts’.<sup>50</sup> The idea of ‘acts of citizenship’ thus has been employed to register the political subjectivity of those formally excluded from the citizenship regime – such as irregular migrants, refugees and stateless people – and to capture the significance of ‘creative ruptures and breaks’ in the given order.<sup>51</sup> Conversely, another strand of the critical literature also illuminates how citizenship as a technology of government functions to produce differentiations, stratifications, and structures of inclusion and exclusion. It is important to note that citizenship as ‘acts’ and as managerial regimes are inherently intertwined with one another, which can be depicted as ‘a mobile surface of engagement between the practices of government and the universe of the governed which constantly tends to escape their grasp’.<sup>52</sup> Historically, as Sassen has noted, it is the insurgent claim-makings of the excluded groups that have continuously forced changes in the juridical and institutional scope of citizenship.<sup>53</sup> However, the incorporation of the achievements of popular contestation into the juridico-institutional regime of citizenship and rights does not mean a teleological movement towards ‘citizenship for all’, as democratic struggles are constantly ‘reappropriated by the play of the governmental machine itself’<sup>54</sup> and becoming included in the citizenship regime may lead to reproducing hegemonic modalities of exclusion based on nationality, ethnicity, productivity and so on.

Along these lines, it is particularly instructive to consider Balibar’s theorisation of social citizenship as a ‘fluctuating reality’ shaped by the power relations among social classes and subject to alternating ‘advances and retreats’.<sup>55</sup> According to Balibar, social citizenship is best understood as a ‘contingent co-occurrence of rights and social movements that are themselves more or less institutionalised’ and that has resulted in the relative neutralisation of class antagonism,<sup>56</sup> rather than being reduced to ‘a collection of social rights granted from above to

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47 W. Walters, ‘Acts of demonstration: mapping the territory of non-citizenship’, in E. F. Isin and G. M. Nielsen (eds.), *Acts of Citizenship* (London: Zed Books, 2008), pp. 182-206, at 192.

48 E.F. Isin and G. Nielsen (eds.) *Acts of Citizenship* (London: Zed Books, 2008).

49 E.F. Isin, ‘Theorizing acts of citizenship’, in Isin and Nielsen (eds.), *Acts of Citizenship*, pp. 15-43.

50 Ibid., p. 37.

51 Ibid., p. 36, for examples of applying this approach to the discussion of European citizenship, see E.F. Isin and M. Saward (eds.) *Enacting European Citizenship* (Cambridge: Cambridge University Press, 2013).

52 J. Donzelot and C. Gordon, ‘Governing liberal societies – the Foucault effect in the English-speaking world’, *Foucault Studies*, 5 (2008), 48–62, at 51.

53 S. Sassen, *Territory, Authority, Rights: from Medieval to Global Assemblages* (Princeton, NJ: Princeton University Press, 2006).

54 J. Rancière, ‘Democracy, republic, representation’, *Constellations*, 13(3) (2006), 297–307, at 299.

55 É. Balibar, *Citizenship* (Cambridge: Polity, 2015), p. 51.

56 Ibid., p. 52.

“weak” individuals who should be seen as passive beneficiaries’.<sup>57</sup> In this respect, Marshall’s classic account of social citizenship centred on the evolvment of civil, political and social rights also posits that the social dimension of national citizenship has not been developed primarily by ‘creating’ social rights, but through ‘the exercise of political power’ by the working class.<sup>58</sup> The historical struggles for political, labour and social rights not only expanded the meaning of citizenship, but also challenged the liberal tradition of rights underpinned by the distinction and distribution of the public and the private. Rancière interprets the claim of the ‘right to work’ made by workers of the nineteenth century as first of all a demand to de-privatise the relations of work and reconstitute work as a ‘structure of collective life’.<sup>59</sup> In other words, these collective forces redefined the aspects of social life pertaining to human needs that were previously considered private, such as work, housing and education, as legitimately political. In Marshall, the reconfiguration of the social as political means that citizenship now implies the right to ‘share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society’.<sup>60</sup>

However, the bounding of access to social rights with national belonging through the development of what Balibar calls the ‘national-social state’ is both inclusive and exclusive. The nationalisation of previously fragmented systems of social assistance – what Marshall describes as a process of geographical fusion and functional fusion – implies the conflation of ‘the national’ with ‘the social’, which renders national boundaries the most important mechanism of exclusion.<sup>61</sup> However, the institution of social citizenship also operates through other kinds of differentiations. As Bhambra and Holmwood have recently explicated, the development of solidarity in European welfare states – especially major colonial powers such as Belgium, France, the Netherlands, and the UK – has its roots in hierarchical relations between the metropole and the colonies as well as racialised inequalities within the ‘national’ society<sup>62</sup>. Moreover, as Balibar notes, the constitution of labour or work as an ‘essentially human capacity’ central to the notion of social citizenship also involves contradictory logics. Although the politically constructed solidarity of the community of worker-citizens is potentially emancipatory and universalist, its institutional forms are also potentially stratifying by ‘distinguishing between useful and useless, active and inactive, or productive and unproductive workers’.<sup>63</sup> The incorporation of social rights into the regime of national citizenship is accompanied by socioeconomic and discursive differentiations along various lines such as class, gender, ethnicity and race. On this account,

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57 Balibar, ‘Antinomies of citizenship’, p. 9.

58 T. Marshall, *Citizenship and Social Class* (London: Pluto Press, 1992), p. 43.

59 Rancière, ‘Democracy, republic, representation’, p. 300.

60 Marshall, *Citizenship and Social Class*, p. 11.

61 C. Zhang, ‘Governing neoliberal authoritarian citizenship: theorizing hukou and the changing mobility regime in China’, *Citizenship Studies*, 22(8) (2018), 855-881.

62 G. K. Bhambra and J. Holmwood, ‘Colonialism, postcolonialism and the liberal welfare state’, *New Political Economy*, 23(5) (2018), 574-587, at 583.

63 É. Balibar, *Equaliberty: Political Essays* (Durham, NC: Duke University Press, 2014), p. 115.

critical theorists also go beyond the category of labour and reconceptualise social citizenship as constituted by competing discourses of needs<sup>64</sup> and claims about the right to social inclusion<sup>65</sup>.

If we take social citizenship as a contingent crystallisation of power relations of social classes and shaped by the ongoing dynamics of the recognition of rights and the struggles over needs and social inclusion, then social rights are ‘never won irreversibly’.<sup>66</sup> The neoliberal retrenchment of welfare in recent decades indicates that the Marshallian ideal of social rights as ‘an absolute right to a certain standard of civilisation’ regardless of an individual’s economic value<sup>67</sup> has not gone uncontested. Furthermore, the increasing flow of international migration, a phenomenon that has its roots in economic globalisation and the international hierarchies of power, has brought about an ‘increasingly complex system of civic stratifications with differential access to civil, economic and social rights’<sup>68</sup> within national welfare states. Meanwhile, from the vantage point of migrant agency, researchers have also explored how new forms of solidarity are being forged through concepts such as ‘mobile commons’<sup>69</sup> or ‘mobile solidarities’<sup>70</sup> against exclusion, exploitation and the proliferation of borders.

What are the implications of critical citizenship studies for the debate about EU free movement reviewed in the first section? First, the relational and processual approach to citizenship highlights its incomplete nature and questions its association with national closure as a natural and finalised project. This problematises the framing of the ‘progressive dilemma’, which has been appropriated by the populist right to present immigrants and ethnic minorities as scapegoats for the declining economic security of the white, working class. Rich empirical evidence indicates that assuming a simplistic relation between welfare policies and openness for immigration or ethnic diversity is misleading.<sup>71</sup> In the European context, it has been shown that EU migrants are fiscally ‘net contributors’ rather than a ‘welfare burden’ to the host country in some of most universalistic welfare states, such as Denmark and Sweden.<sup>72</sup> However, framing the relationship between national solidarity and immigration as an inherent dilemma is problematic not only because of the lack of systemic evidence. Understanding national social

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64 N. Fraser, *Unruly Practices: Power, Discourse and Gender in Contemporary Social Theory* (Minneapolis, MN: University of Minnesota Press, 1989).

65 M. Somers, *Genealogies of Citizenship: Markets, Statelessness, and the Right to Have Rights* (Cambridge: Cambridge University Press, 2008).

66 Balibar, *Equaliberty*, p. 113.

67 Marshall, *Citizenship and Social Class*, p. 43.

68 E. Kofman, ‘Citizenship, migration and the reassertion of national identity’, *Citizenship Studies*, 9(5) (2005), 453-467, at 453.

69 N. Trimikliniotis, D. Parsanoglou and V. S. Tsianos, ‘Mobile commons and/in precarious spaces: mapping migrant struggles and social resistance’, *Critical Sociology*, 42(7-8) (2016), 1035-1049.

70 V. Squire, ‘From community cohesion to mobile solidarities: the city of sanctuary network and the strangers into citizens campaign’, *Political Studies*, 59(2) (2011), 290-307.

71 R. Bauböck and P. Scholten, ‘Introduction to the special issue: solidarity in diverse societies: beyond neoliberal multiculturalism and welfare chauvinism’, *Comparative Migration Studies*, 4(4) (2016), 1-7.

72 D. S. Martinsen and G. Pons Rotger, ‘The fiscal impact of EU immigration on the tax-financed welfare state: testing the ‘welfare burden’ thesis’, *European Union Politics*, 18(4) (2017), 620-639; J. Ruist, ‘Free immigration and welfare access: the Swedish experience’, *Fiscal Studies*, 35(1) (2014), 19-39.

citizenship as a fixed and finalised institution, such a framing tends to ignore that solidarity within the nation state has been politically constructed and involved racialised and gendered forms of exclusion. Labour mobility has been integral to the collective movements that have driven the institutionalisation of social rights. Presuming a dichotomous opposition between international migration and national solidarity also disregards the fact that mobility as a 'particular form of sociality' has the potential to promote intersubjective understandings and mobility-based struggles could create solidaristic relationships among members of different collective constructs such as nation, ethnicity and class.

Second, while critics of liberal cosmopolitanism correctly note that the codification of transnational rights alone does not necessarily bring about norms of solidarity across borders, solidarity can emerge in the process of taking part in collective actions rather than 'its indispensable condition of possibility'.<sup>73</sup> Furthermore, although I agree with the republican argument that rights do not originate outside political processes, the democratic verification of rights is not confined to official and established venues of participation.<sup>74</sup> Critical citizenship studies draw attention to how status non-citizens enact citizenship and the rightless claim rights through democratic struggles that contest the governmental regimes of citizenship and rights. As to be shown in the next section, migrants and 'sedentary' citizens enact transnational rights both within and against the institutional frameworks of free movement in a number of ways and spaces. Lastly and relatedly, critics of free movement correctly argue that the prioritising of economic integration over social protection and the increased barriers for economically inactive Union citizens to access welfare benefits produce a neoliberal and stratified notion of citizenship. However, just as the 'progressive's dilemma need not be real'<sup>75</sup>, the reduction of human mobility into a factor of market relations and a resource for the privileged private citizen need not be the only way of understanding mobility. When conditions of globalisation effectively displace social antagonism on the international level,<sup>76</sup> confusing the critique of neoliberal globalisation with the defence of national closure risks forming a 'misplaced alliances between capital/business and labour' against the projected 'enemy' of foreign workers<sup>77</sup>, which would only reinforce processes of racialisation and marginalisation in societies that have always already been characterised by heterogeneity. Collective struggles against misplaced alliances, social exclusion and precarious employment bring into being politically constructed solidarity across a plurality of borders.

### Re-envisioning Solidarity Through Acts of (Social) Citizenship

The remainder of the chapter considers the strategies of reconfiguring the relationship between cross-border mobility and social rights against the individualistic and differentiated approach to free movement in the supranational and national governance of intra-EU mobility. I focus on the

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73 Ypi, 'Politically constructed solidarity', p. 121.

74 C. Zhang, 'Between postnationality and postcoloniality: human rights and the rights of non-citizens in a "cosmopolitan Europe"', in N. Dhawan (ed.), *Decolonizing Enlightenment: Transnational Justice, Human Rights and Democracy in a Postcolonial World* (Opladen: Barbara Budrich Publishers, 2014), pp. 243-260.

75 Parker, 'Critical political economy', p. 488, emphasis in original.

76 Balibar, *Citizenship*, p. 54.

77 Ó. G. Agustín and M. B. Jørgensen (eds.), *Solidarity without Borders: Gramscian Perspectives on Migration and Civil Society Alliances* (London: Pluto Press, 2016).

'acts of citizenship' outside formal political and legal institutions without dismissing the crucial role parliamentary democracy, social policy and law should play in reconciling the trilemma between economic integration, social protection and democratic legitimacy. However, the purpose here is to bring to the fore how alternative views on free movement, rights and solidarity are articulated 'from below' in other increasingly transnational spaces: such as migrant activism and trade unionism<sup>78</sup>. Two aspects of the institutional limits of free movement are being contested in these mobility struggles: (1) the first concerns the juridico-institutional restrictions on free movement and access to social rights imposed on vulnerable EU migrants; and (2) the second pertains to the impact of market integration on precarious employment – or the 'trade-off' between mobility and rights mobile workers are often forced to accept. The former dimension thus addresses social exclusion by engaging in a politics of needs and equality; and the latter is oriented towards building transnational industrial citizenship 'based on inclusive forms of worker solidarity'.<sup>79</sup>

As noted earlier, the rights to mobility and equal treatment of Roma EU citizens have been particularly disadvantageously affected by instituted restrictions on free movement in EU law and national administration. Their right to residence in other member states are either completely denied, as in the case of forced removals and forced 'voluntary returns', or severely circumscribed to the degree that they are 'effectively without access to social rights and pathways to permanent residence'.<sup>80</sup> However, in contrast, mobilisation networks against the othering of Roma populations as 'semi-citizens'<sup>81</sup> offer an opportunity to verify the inscription of transnational rights through democratic practices and thereby to enact European citizenship within and against its institutional arrangements. Some forms of mobilisations contest the variegated regime of rights by appealing to the universalistic principles of EU citizenship, while others bring the (transnational) social question into the picture and deploy the language of

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78 This chapter focuses on the relationship between free EU movement and social citizenship, and therefore looks specifically at mobility-related struggles. See, for example, Blokker for a theoretical analysis of other civil society movements that seek to address the questions of social solidarity and democratic legitimacy. He considers them as part of an emerging 'bottom-up constitutional order', Blokker, 'Constitutional alternatives to the crisis', p. 76.

79 V. Doellgast, N. Lillie and V. Pulignano, 'From dualization to solidarity: halting the cycle of precarity', in V. Doellgast, N. Lillie and V. Pulignano (eds), *Reconstructing Solidarity: Labour Unions, Precarious Work, and the Politics of Institutional Change in Europe* (Oxford: Oxford University Press, 2018), pp. 1-41, at 34.

Schiek usefully distinguishes receptive solidarity from participatory solidarity in her discussion of transnational social citizenship: the former refers to the relationship between the benefactor (such as the state) and the citizens as passive recipients of certain benefits that relieve them from 'constant worry about their mere existence', whereas the latter enables citizens to directly engage with each other and 'gain the right to improve their position in the markets' through collective actions, Schiek, 'Perspectives on social citizenship in the EU', pp. 349–50. This distinction roughly corresponds to the two loci of mobility struggles discussed here. However, even though some practices concentrate on questions of receptive solidarity and others on participatory solidarity, I emphasize the participatory dimension in both fields.

80 M. Tervonen and A. Enache, 'Coping with everyday bordering: Roma migrants and gatekeepers in Helsinki', *Ethnic and Racial Studies*, 1(18) (2017), 1114-1131, at 1114.

81 J. Sardelić, 'The position and agency of the 'irregularized': Romani migrants as European semi-citizens', *Politics*, 37(3) (2017), 332-346.

solidarity as a critique of neoliberal citizenship. Protesting the expulsions of Roma in France in 2010, for example, a group of Roma non-governmental organisations formed their campaign around 'a simple motto, ROMA = CITIZENS', emphasising that such measures clearly violated EU law such as the free movement directive and that 'Roma persons are citizens enjoying full rights in the European Union'.<sup>82</sup> Nonetheless, the instrumental use of the established discourse of rights and citizenship often both ruptures and re-inscribes the structures of inclusion and exclusion they seek to challenge.<sup>83</sup> Thus as Aradau et al. have shown, activists also make claims in ways that go beyond the 'institutional scripts' of European citizenship and minority rights.<sup>84</sup> Scholars illustrate this simultaneous enactment and disruption of the official framing of citizenship and free movement through the example of a demonstration that took place in Italy in 2008. As a Roma activist put it, '[W]hen I talk about rights I am referring to education, work but also the possibility of having an active role in society.'<sup>85</sup> These reformulations of mobility rights resist the privatised notion of free movement as a resource for the autonomous, free moving individual and activate an understanding of mobility as a 'form of sociality' enabling exchanges between strangers<sup>86</sup> and claims to social rights.

Another example could be drawn from a Swedish online network named 'Solidaritet med EU migranter!' (SOM), recently documented and analysed by Morell.<sup>87</sup> The online community was founded by local activists to support vulnerable EU migrants by providing shelter, advocating against criminalisation and discrimination, improving their living conditions materially, and fighting 'for their cause politically'. The network criticises the unjust border regime that essentially views some people as having 'less right to life opportunities than others' and maintains that their activism is not driven by humanitarian sentiment, but rooted in a 'a practical solidarity between all of us who were hit by the crises of capitalism independent of where we are from'. Furthermore, members of the SOM deny the misplaced alliance by positing themselves, the 'Swedes', as victims of the same system of exploitation that has shaped the experiences of vulnerable migrants prior to and after their migration.<sup>88</sup> The language of solidarity is thus employed in such a way that explicitly distinguishes itself from that of humanitarianism and inscribes itself within a political economic analysis of the power structures that deepen migrant precarity. Crucially, it is precisely the recognition that both sedentary citizens and migrants are

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82 Fundación Secretariado Gitano (FSG) and the European Roma Policy Coalition (ERPC), 'Letter to the Non-Profit Social Sector'. Available at [https://www.gitanos.org/citizens/bu/roma\\_citizens.pdf](https://www.gitanos.org/citizens/bu/roma_citizens.pdf). See also Parker, 'Roma and the politics of EU Citizenship in France'.

83 McNevin, 'Ambivalence and citizenship'; B. Anderson, 'Mobilizing migrants, making citizens: migrant domestic workers as political agents', *Ethnic and Racial Studies*, 33(1) (2010), 60-74.

84 C. Aradau, J. Huysmans, P. G. Macioti and V. Squire, 'Mobility interrogating free movement: Roma acts of European citizenship', in Isin and Saward (eds.), *Enacting European Citizenship*, pp. 132-154, at 141.

85 *Ibid.*, p. 147.

86 C. Aradau and J. Huysmans, 'Mobilising (global) democracy: A political reading of mobility between universal rights and the mob', *Millennium: Journal of International Studies* 37(3) (2009), 583-604.

87 I. A. Morell, "'Solidarity not alms": civil rights movements contesting the evictions and denial of social rights from vulnerable European Union citizens in Sweden', *Local Economy*, 33(2) (2018), 147-171.

88 *Ibid.*, pp. 153-4.

subject to the hegemonic power of the transnational market and the supranational law that has become a starting point for reformulating solidarity across borders.

The second locus of mobility struggles revolves around the empowering of migrant workers through the exercise of industrial citizenship, which has been institutionalised within the national context as processes of organisation and participation through which to negotiate class interests and to assert 'social control over market forces'.<sup>89</sup> As noted earlier, the dynamics between collective actions and the recognition of rights have driven the development of national social citizenship within territorially exclusive communities. Against the background of market integration and the informalisation of labour, the inclusion of migrant workers into institutions of collective bargaining and workplace representation provides an important platform for forging transnational solidarity and fighting against precarious employment within increasingly transnationalised relations of capital and labour. Clearly, efforts to unionise migrant workers face various obstacles ranging from the temporary contracts of migrants and the nationalist attitudes of unions to certain aspects of EU regulation.<sup>90</sup> However, recent research in industrial relations and labour studies has documented a growing number of successful instances where EU and non-EU migrant workers are represented and integrated into systems of social dialogue<sup>91</sup>. Despite difficulties, the unionisation and other forms of organisation of migrant workers not only seek to enhance labour rights and improve working conditions, but also enable migrants to exercise industrial citizenship and gain a 'right to have rights' in the socioeconomic field, which is above all the right to have a political voice and take part in collective actions. Moreover, the prospect for a transnational industrial citizenship highlights emergent forms of solidarity and identities based on 'social interdependency' and 'the dynamics of the claiming process'.<sup>92</sup> Such emergent solidarity constitutes both a source and a democratic justification of transnational social rights.

These different fields of contestation aimed at renegotiating the relationship between mobility and social rights redefine the concepts of social citizenship and solidarity in the transnational setting. First of all, they are acts of citizenship that either demand recognition and inclusion in the existing regime of EU citizenship or a radical 'staging of a non-existent right'<sup>93</sup>, such as the right of non-nationals to social inclusion. It is essentially through acts or, in Arendtian terms, the 'performance itself',<sup>94</sup> that the process of subjectivisation brings into being the citizen subject as equal and political beings. Furthermore, the examples of mobilisations of both sedentary and migrant citizens discussed above insist on the social dimension of transnational citizenship and challenge the individualistic logic of neoliberal cosmopolitan citizenship. If questions of social inclusion and labour rights have been de-privatised and politicised through collective struggles

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89 C. Zhang and N. Lillie 'Industrial citizenship, cosmopolitanism and European integration', *European Journal of Social Theory*, 18(1) (2015), 93–111, at 98.

90 V. Doellgast, N. Lillie and V. Pulignano (eds.), *Reconstructing Solidarity: Labour Unions, Precarious Work, and the Politics of Institutional Change in Europe* (Oxford: Oxford University Press, 2018).

91 For one of the latest collections of case studies, see Doellgast, Lillie and Pulignano (eds.), *Reconstructing Solidarity*.

92 Dean, 'The translation of needs into rights', p. 32.

93 J. Rancière, *Dis-agreement: Politics and Philosophy* (Minneapolis, MN: University of Minnesota Press, 1999), p. 25.

94 H. Arendt, *The Human Condition* (Chicago, IL: University of Chicago Press, 1998), p. 206.

within the national context, the 'transnational social question'<sup>95</sup> remains largely determined by the power of market interests or regulated by juridical and administrative procedures. Mobilisations focused on the social rights of mobile workers constitute democratic forces that politicise the social question within transnational regimes of labour migration that organise and condition precariousness.

Acts of social citizenship in the context of cross-border mobility spell out the politically constructed nature of solidarity in the two senses of being 'political' mentioned in the introduction. First, practices of migrant solidarity with regard to social rights, whether being providing basic services of livelihood or integrating migrant workers into national frameworks of industrial citizenship, are more than expressions of hospitality and compassion external to politics.<sup>96</sup> They are rather situated within connected and different strategies of resistance against the neoliberal logics of labour migration regimes that produce shared experiences of precarity and naturalise 'trade-offs' between mobility and rights. Second, the struggles over transnational social rights outside formal channels of democratic participation open up terrains for new forms and relations of solidarity to emerge, precisely through political actions.<sup>97</sup> This also engenders an alternative understanding of human mobility rooted in social interactions and sensitive to the spatialised power relations that circumscribe it. In contrast with the individualist approach to free movement as the right of the autonomous individual to enter freely into the transnational labour market, cross-border mobility is reformulated as a medium for constructing solidaristic intersubjective relations beyond the statist space. Solidarity practices create connections not only among the people on the move and between 'immobile' and 'mobile' EU citizens, but also more broadly between EU citizens and third-country nationals – whether the latter are 'legal', 'illegal' or with ambiguous legal status. This has been displayed in both Roma solidarity movements and trade union organisations.<sup>98</sup> It is of crucial importance that the democratic contestations that redefine free movement as the right to inclusion and participation also questions the dichotomy of internal and external mobility in the citizenship and border regimes of 'EUrope', especially in a time marked by growing anti-refugee and anti-immigration anxieties.

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95 T. Faist, 'On the transnational social question: how social inequalities are reproduced in Europe', *Journal of European Social Policy*, 24(3) (2014), 207-222.

96 Tazzioli and Walters 'Migration, solidarity and the limits of Europe'; R. Kelz, 'Political theory and migration: Concepts of non-sovereignty and solidarity', *Movements: Journal für kritische Migrations- und Grenzregimeforschung*, 1(2) (2015), 1-18.

97 Ypi, 'Politically constructed solidarity'.

98 For example, Çağlar writes that after a group of Roma families and supporters squatted in a Berlin church because of possible police eviction in 2009, they received voices of support from a wide range of civil society organisations such as the Refugee Council of Berlin and the Sans Papiers from Paris. A. Çağlar, 'Displacement of European citizen Roma in Berlin: acts of citizenship and sites of contentious politics', *Citizenship Studies*, 20(5) (2016), 647-663. Tapia and Holgate have shown how traditional unions have over time developed strategies to support undocumented migrant workers in the UK, France, and Germany, M. Tapia and J. Holgate 'Fighting precariousness: Union strategies towards migrant workers in the UK, France and Germany', in Doellgast, Lillie and Pulignano (eds.), *Reconstructing Solidarity*.

## Conclusion

This chapter started by reviewing some of the criticisms of EU free movement, especially in relation to social citizenship and the national welfare state, from normative, legal and political economic perspectives. Those emphasising democratic boundedness argue that the expansion of individual rights beyond national borders through law is insufficient to create relations of reciprocity and solidarity underpinning political and republican understandings of citizenship. Another strand of critique points out that the neoliberal governance of free movement produces a market citizenship that, on the one hand, prioritises economic freedoms over social protection and, on the other hand, increases civic stratification through a variegated regime of rights. The chapter then reflected on how critical citizenship theory could help us move beyond the individualist approach to mobility rights in liberal cosmopolitanism and the static conceptualisation of solidarity in the defence of national closure. Drawing on the work of Balibar, social citizenship could be understood as a contingent crystallisation of relations of force within ongoing processes of struggles over social inclusion and human needs. In this account, solidarity and rights are co-occurrent in the open-ended political processes through which individuals constitute themselves as citizens and establish reciprocal relations – in their coming together to form a ‘common world’.<sup>99</sup>

In this light, the last section of the chapter considered the theoretical significance of two interrelated fields of contestation over the social rights of intra-EU migrants: those against exclusion and rightlessness; and those enacting industrial citizenship. Their theoretical implications for the concepts of both social citizenship and solidarity in the transnational setting were reflected on. As acts of social citizenship they politicise the question of social rights in the context of cross-border mobility and resist the market logic naturalising ‘trade-offs’ between mobility and rights. As solidarity movements, these practices spell out the political nature of solidarity not only because they are positioned within transnationalised socioeconomic structures and heterogeneous constellations of resistance, but also in that they open up terrains for new forms and relations of solidarity, which traverse the boundaries of the national, the European and the legal, to emerge through political actions.

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<sup>99</sup> É. Balibar, ‘(De)constructing the human as human institution: a reflection on the coherence of Hannah Arendt’s practical philosophy’, *Social Research: An International Quarterly*, 74(3) (2007), 727-738, at 732.