

**Symposium on
Rainer Bauböck's
*Democratic Inclusion***

Enrico Biale
**Democratic boundary:
A complex account**

A democracy is a distinctive form of government because it acknowledges its members as free and equals by granting them equal political rights (Beitz 1989; Christiano 1996; Dahl 1989). Yet in a world characterized by migratory fluxes and where political decisions are deeply interconnected (Marchetti 2008; Held 1995; Dryzek 1999), a more fine-grained analysis of the boundary of the *demos* and the requirements of citizenship is in order (Owen 2011; Arrhenius 2005; Goodin 2007). Migration entails that a citizen of a state could move to another country and be permanently, or only temporarily, governed by its policies (Carens 2008; Castels 2006; Ottonelli and Torresi 2012; Lenard 2012). It is then necessary to clarify which requirements a citizen needs to meet to properly exercise her political rights and which duties a democratic polity has toward its members and citizens, provided these are not coextensive sets (Bauböck 2007, 2011; Biale 2016, 2017). The interdependence between polities entails that a decision of one of them affects members of other countries as well. It is then important to understand whether only those who are governed by a decision should be included within the *demos* and their interests considered (Miller 2000), whether every interest affected by a policy should be impartially evaluated by those who are included within decision-making (Owen 2012; Erman 2014), or whether everyone whose interests are affected should be part of the *demos* (Goodin 2007; Fung 2013). Rainer Bauböck dedicated his work to properly addressing these problems by defining the boundary of democracy and the requirements of citizenship and addressing these issues from both a theoretical and a practical standpoint

(Bauböck 2007; 2009; 2011). *Democratic Inclusion* is fundamental in this debate because Bauböck further attunes his account, providing one of the most complex and complete versions of democratic *demos* in the literature. Before focusing on the proposal developed by Bauböck and analysing its merits and shortcomings, I would like to underline how he rightly challenges two simplistic but widespread approaches to this topic, according to which

- 1) “we have to accept the historical contingency of political boundaries and the powers of nation-states to determine themselves who their citizens are” (Bauböck 2017, 7*);
- 2) political boundaries are illegitimate if not compatible with democratic principle and everyone who is affected by a decision should be included in the decision-making process that produces this choice.

Let us briefly consider why Bauböck rejects these perspectives.

Political boundaries cannot be assumed as a matter of fact because this idea would undermine the legitimacy of our institutions. Liberal values are, in fact, embodied in our democratic societies, and if these polities have to acknowledge everyone as free and equals it is difficult to claim that migrants should not have any voice in decisions that deeply affect them. If they had no voice, migrants would not be considered agents who have control over their life plans and their freedom would be significantly curtailed without any acceptable justification (Lovet 2010; Sager 2014).¹ Adopting a realist perspective on democratic boundaries but grounding the legitimacy and value of democracy on the fulfilment of normative requirements, such as freedom and equality, clearly entails a double standard that liberal-democratic institutions cannot accept.

Cosmopolitanism is not a proper answer to these problems either, because it does not understand that political boundaries are “the normal conditions under which democracy is both empirically possible and nor-

* The text by Rainer Bauböck *Democratic Inclusion. Rainer Bauböck in Dialogue* is cited in original (2017, Manchester University Press), but the page references pertain to the Italian translation (“L’inclusione democratica. Una visione pluralista della cittadinanza”, in *Biblioteca della libertà*, vol. LII, n. 220, pp. 7-101).

¹ This does not necessarily require justifying full political inclusion of migrants (Carens 2013; Cole 2000) but acknowledging that a liberal polity needs to provide a justification that fulfils democratic requirements in order to explain the legitimacy of political boundaries. It also acknowledges that migrants have a right to demand a justification for those decisions that deeply affect their lives.

matively necessary” (Bauböck 2017, 11). Without political boundaries, there would not be a distinction between intra- and interpolity relations. As Bauböck (2017, 12) notes, “This distinction is, however, constitutive for the political as a distinct sphere of human activity.” As suggested by Arendt, “A citizen is by definition a citizen among citizens of a country among countries. His rights and duties must be defined and limited, not only by those of his fellow citizens, but also by the boundaries of a territory. [...] Politics deals with men, nationals of many countries and heirs to many pasts; its laws are the positively established fences which hedge in, protect, and limit the space in which freedom is not a concept, but a living, political reality. The establishment of one sovereign world state [...] would be the end of all citizenship” (Arendt 1970, 81-82). To conclude, a society without political boundaries would transform a democratic polity into a club whose members are only partially affected by its decisions and not significantly committed to its long-term interests (Bauböck 2011).

Having discussed what ambiguities should be avoided, Bauböck develops his pluralistic account of democratic boundary that is grounded on a multiplicity of principles (all-affected, all-subjected, and stakeholder principles). His analysis is particularly significant and innovative precisely because he holds that these criteria are not alternative but complementary and he claims that “democratic inclusion principles must not only satisfy theoretical criteria, such as compatibility with broader principles of justice and democracy, internal coherence and answers to objections raised by rival theories, but also practical criteria that show how the proposed inclusion principles allow to address the boundary problems arising within democratic politics” (Bauböck 2017, 8). Despite these undeniable merits, I will raise some concerns regarding the interpretation Bauböck provides of the all-affected-interest principle and the shortcomings he ascribes to all-subjected principle. The article will proceed as follows. In the first section, I will analyse the pluralistic account of democratic boundaries developed by Bauböck and the objections he addresses to those monistic approaches that ground democratic boundaries on the all-affected or all-subjected principle. In the second section, I will point out some ambiguities that characterize Bauböck’s interpretation of the all-affected principle. In the final section, I will suggest an account of a fluid *demos*, one that is grounded on the all-subjected principle but overcomes the problems Bauböck ascribes to this criterion.

I. A COMPLEX ACCOUNT OF DEMOCRATIC *DEMOS*

Bauböck claims that a proper account of *demos* cannot be grounded on a single principle (all-affected, all-subjected, or stakeholder) but on a plurality of criteria according to which every interest affected should be seriously taken into consideration during the deliberative process, all those who are subjected to coercion should be impartially treated by the authority that exercises this coercion, and those who have a stake in the flourishing of the political community should be granted equal political rights. Before focusing on this account, I would like to consider the objections developed by Bauböck against those monistic perspectives according to which democratic boundary can be defined either by the all-affected-interests or the all-subjected principle.

The “all-affected-interests principle” (Aai) holds that all those whose interests are significantly affected by a decision should be considered part of the *demos* and have a say in the decision-making (Goodin 2007; Whelan 1983; Dahl 1989; Fung 2013). Despite its intuitive appeal, this perspective has been deeply criticized because it undermines political equality by justifying different *demoi* for different decisions and assigning different weights to the members of the *demos* in relation to the impact of a decision on their interests (Erman 2014). Bauböck further develops and strengthens these objections by pointing out that “if Aai is the only valid principle for determining membership in a *demos*, then all those whose interests are affected by any possible decision arising out of any possible agenda must be included in the *demos*. A *demos* with agenda-setting powers formed under the Aai principle must therefore be global in scope” (Bauböck 2017, 26).

The justification of a global *demos* underestimates, as previously pointed out, the importance of boundaries for the proper development of a functioning democracy. Citizens can properly exercise their political agency if they are committed to the long-term interests of the polity and have a sense of solidarity toward each other (Biale 2018; White and Ypi 2016). Because members of a global *demos* are very unlikely to meet these requirements, Aai cannot define the boundary of the *demos* but only specify those whose interests should be carefully considered during the deliberative process.

The most important alternative to Aai holds that all those who are subjected to the exercise of political authority should have equal influence in the decision-making (Erman 2014, Owen 2012). Bauböck recognizes that this principle (all subjected to coercion, thereafter Asc) acknowledges an import-

ant dimension of democratic authority, namely the idea that a liberal-democratic government has a special responsibility toward, and needs to treat with equal concern and respect, those who are coerced by its decisions (Abizadeh 2008). Yet Asc cannot alone define who should be included in the *demos*, because it is biased toward those who are currently subjected to the political authority and does not ensure that those who are included within the *demos* are concerned with the development and flourishing of the polity. Let me clarify these points.

A principle of political inclusion should identify individuals who are, at least in principle, committed to the flourishing of the political community. Otherwise, “the very preconditions of citizenship as an institution” (Bauböck 2011, 685) are undermined. Asc, Bauböck claims, does not meet this requirement because it ascribes political rights only to those who are currently living in a country. Firstly, this would disenfranchise migrants and their descendants from their countries of origin even if they are deeply attached to this country and concerned with its long-term interests (López-Guerra 2005). Secondly, this bias toward those currently subjected to coercion would not grant to prospective migrants any voice on decisions that deeply affect their lives and significantly limit their autonomy. Finally, since subjection to authority is a binary property (individuals are either subjected or not) Asc needs to justify the extension of full political rights to those, such as temporary migrants, who cannot properly exercise these rights because they are legitimately not concerned with the long-term interests of the polity (Bauböck 2011; Biale 2017; Ottonelli and Torresi 2014).

To avoid these shortcomings, it is not necessary to adopt a liberal-nationalist perspective (Miller) according to which political participation is a value that proper citizens should pursue. Instead, we can acknowledge that a normative account of democracy needs individuals who have the capacity, and the motivation, for exercising political agency (Biale 2015, 2018; White and Ypi 2016). Political inclusion should then be grounded, Bauböck claims, on the stakeholder principle, according to which “all whose individual autonomy and well being depends on the collective self-government and flourishing of the polity have a claim to citizenship in that polity” (Bauböck 2017, 51).

Stakeholders acknowledge themselves as political actors because they recognize themselves to be part of a political community that needs to address issues collectively, and they can properly exercise their political rights because they are committed to the long-term interests of their polity. This perspective

conveys a republican idea of political inclusion according to which citizens do not need to share values or consider political participation as a duty but acknowledge an intrinsic value to democracy and an instrumental value to political participation to protect the flourishing of their life plans.

To conclude, democratic inclusion is a complex perspective that requires endorsing “simultaneously and without contradiction:

- Aai: All whose interests are actually affected by a decision on the agenda of a democratic legislator have a claim to representation of their interests in the decision-making process.
- Asc: All who are subject to the jurisdiction of a government have a claim to equal protection of their rights and freedoms by that government and a right to contest its decisions.
- Acs: all whose individual autonomy and well being depends on the collective self-government and flourishing of the polity have a claim to citizenship in that polity” (Bauböck 2017: 51).

As I previously pointed out, this account is appealing because it acknowledges and addresses the complexity of democratic boundary and citizenship. Yet I would like to raise some concerns regarding the role Bauböck acknowledges for Aai and Asc.

2. ALL-AFFECTED PRINCIPLE: A RIGHT TO BE INCLUDED OR A RIGHT TO BE CONSIDERED?

Bauböck rightly points out that AAI cannot define who should be granted political rights but that it specifies those whose interests need to be represented in the decision-making process. This clearly entails that for any decision made by a given democratic polity, the interests that should be assessed go beyond those of the members of this polity. To exemplify this point, consider the following case: The French government is evaluating whether to build a nuclear power plant along the French/Italian border. Since Italian citizens will be deeply affected by this choice, their interests, according to Aai, should be carefully taken into consideration even if only French citizens have the authority to choose whether the nuclear plant needs to be built. Bauböck rightly holds that our current political systems do not fulfil these requirements and should be reformed so as to ensure that during the deliberative process that forms and

discusses different policies, all the interests affected are represented. To achieve this aim, Bauböck suggests different alternatives, such as intergovernmental consultations, transnational agencies concerned with issues that affect more than one country, and direct representation of all the interests involved: “This might be done, for example, through transborder referendums on issues such as the opening or closure of nuclear power plants close to an international border. [...] Granting veto power over a political decision to the citizens of a neighbouring state is obviously a proposal for which it will be hard to get political support. My point here is, however, that doing so does not merge the two *demoi* into a single issue-specific *demos*, but retains their identities as separate and self-governing political communities” (Bauböck 2017: 29).

Even if I agreed with this interpretation of Aai, some clarifications would be needed:

- 1) There is a tension between transnational referenda and the role Bauböck assigns to Aai;
 - 2) Aai requires that members of a polity do not only consider the interests of their polity, but it does not necessarily entail that everyone whose interest is at stake should be included in the decision-making.
1. Transnational referenda might seem the most inclusive and desirable, though least likely to be realized, option to ensure every interest affected is represented. Yet I would like to raise some concerns regarding their compatibility with Bauböck’s interpretation of democratic inclusion. Granting a veto power over a political decision to the citizens of a neighbouring state does not only ensure that their interests are represented, but it grants them a political power over another *demos*’s choice. If the political decisions of two *demoi* depend on the wills of both of these *demoi*, their laws and policies will not only be selected by those who have a stake in the flourishing of the polity but also by those whose interests are affected. Yet, according to Bauböck, Aai can justify including those whose interests are affected in the deliberative process that defines the options among which the *demos* will vote, but it cannot grant them any right to choose among the options. Otherwise Aai will, at least partially, identify those individuals who are part of the political community that can exercise a political authority. Since referenda do not ensure that interests and preferences are represented but that the will of a self-governing community is expressed, transnational referenda do not fulfil Aai. Transnational referenda, are not, therefore,

unfeasible but are incompatible with the idea of democratic inclusion defended by Bauböck.

2. Though I agree with Bauböck that Aai requires representing in the decision-making all the interests affected, his analysis does not clarify what this principle entails and which rights it grants to those whose interests are at stake. It might be suggested, and sometimes Bauböck seems to share this view, that Aai justifies including on an equal footing in the deliberative process everyone whose interest is affected. I will challenge this perspective and hold that Aai grants justificatory power to those affected but not necessarily their inclusion in the deliberative process and, surely, not their inclusion as peers. If we reject the idea that Aai specifies the boundary of the *demos*, this principle holds that “all whose legitimate interests can be reasonably foreseen to be actually affected by a choice between any of the range of plausible options open to the polity should have their legitimate interests impartially taken into account in the decision-making process” (Owen 2012, 141). If properly understood, Aai defines a duty of impartiality that needs to be satisfied by the members of the *demos* and a right for those whose interests are at stake to demand a justification for those decisions that deeply affect their lives (Owen 2011, 2012; Bauböck 2009; Schaffer 2012). To ensure the opportunity to exercise this justificatory right, individuals do not need to be included in the deliberative process that defines those policies that affect their interests. Ex post contestatory procedures, such as those advocated by Philip Pettit (1999, 200), can grant the exercise of this right to justification because they ensure that those whose interests are affected can challenge a decision if they think their interests were not taken into consideration and exclude these policies if an acceptable justification is not provided to them.

It might be claimed that interest bearers need to be included within the deliberative process to ensure that members of the *demos* can impartially evaluate all interests at stake. Since in fact only interest bearers can properly know their interests, their inclusion enhances the epistemic quality of the deliberative process. Though this instrumental argument holds, it justifies the consultation of those whose interests are affected, not their inclusion on an equal footing.

To conclude, even if Bauböck is right in claiming that Aai cannot define the boundary of the *demos*, his interpretation of this principle seems to be characterized by some ambiguities that should be addressed.

3. A FLUID *DEMOS*

Bauböck holds that since citizens should be committed to the flourishing of their political community, a democratic boundary cannot be exclusively defined by Asc, because this principle is biased towards those currently living in a country and would undermine the preconditions of citizenship. Asc would extend equal political rights to temporary migrants, would not grant a voice to prospective migrants on decisions such as border controls that deeply affect their lives, and would disenfranchise migrants from their countries of origin. Even if I acknowledge that these are significant shortcomings of some interpretations of Asc, I would like to provide a more nuanced version of this criterion that can overcome these problems. This account will justify a fluid *demos* (Biale 2017) that will acknowledge full political rights to permanent members of the polity, will partially include temporary migrants without undermining the preconditions of citizenship, will grant a voice to prospective migrants on deeply relevant issues for them, and only partially and temporarily disenfranchise migrants from their countries of origins. Let us analyse these proposals in more detail.

Though it is true that Asc would grant equal political rights only to those who are systematically and over time subjected to the exercise of political power (authority), I would like to challenge the idea that this is problematic because it is biased towards those who are currently living in a country.

According to my interpretation of Asc, “what justifies the inclusion within the *demos* is not the coercion exercised by democratic policies – tourists are subjected to this coercion as well – but the impact they have on the capacity of the individuals to plan their lives, namely to exercise their agency” (Biale 2017). What needs to be granted by a democratic polity to treat its members as free and equal is that they have control over their life plans (Rawls 1994, Larmore 1999). If a legitimate life plan of a member of the polity is at stake in a political decision of the polity and those who pursue this plan are not included in decision-making, then they will not be agents in control of these life plans, because others will choose for them. Since, however, the impact political decisions have on the life plans of people depends upon the temporal exposure individuals have to political authority, Asc would justify differentiated levels of political inclusion.

Because only permanent members of a polity, those who are currently living in a country and have the reasonable expectations to develop their life

plans within this country, have their life plans crafted by the decisions of this polity, Asc would require ascribing them equal political rights. By granting political rights only to those who are systematically and over time subjected to political authority, Asc acknowledges that to properly exercise these rights a certain continuity is necessary over time.

Though this perspective justifies ascribing political rights only to permanent members of a society, it includes within the *demos* temporary and prospective migrants. While I agree that they cannot properly exercise political rights, because they are not continuously and over time subjected to the political authority of their hosting or future countries, their exclusion is problematic because, unlike with tourists, their life plans are at least partially crafted by the political decisions of their hosting and future countries. As a consequence, my interpretation of Asc requires granting them fair opportunity of influencing those decisions that have a significant impact on their lives. Their inclusion would ensure an egalitarian society without undermining citizenship and its requirements. First, temporary and prospective migrants would have a limited impact on the decisions of the polity that would be primarily affected by the decisions of permanent members of the society. Second, individuals who are systematically and over time subjected to political authority would likely develop a sense of belonging to the political community and a concern for its long-term interests. To conclude, this interpretation of Asc ensures a complex account of *demos* that grant a voice to temporary and perspective migrants without undermining the idea that citizens should be committed to the long-term interests of their political communities.

Would this account of *demos* justify disenfranchising migrants who leave their countries of origin? My answer is a qualified yes. This perspective is, I hold, less problematic than the full inclusion of migrants and their descendants that is entailed by the stakeholder principle. Though my proposal could justify excluding from the *demos* migrants who leave their countries of origin, and it would not grant political rights to their descendants,² the process of disenfranchisement would be proportional to their detachment from their countries of origin and reversible. Since full inclusion would be granted only to those whose life plans are crafted by the decisions of a given

² Descendants of migrants would be disenfranchised because their life plans are neither crafted nor affected by decisions of the countries of origin of their relatives.

polity, migrants whose life plans are developed in other countries could not have full political rights. Yet they might influence those policies that have an impact on their life plans, and if they come back they would be immediately enfranchised. This partial exclusion might sound counterintuitive, but it is less problematic than the idea of extending full political rights to individuals whose life plans are not crafted by the political authority of a country and of including within the *demos* individuals who are not affected at all by the policies of a society.

To conclude, a proper interpretation of Asc seems to be able to define a complex idea of democratic inclusion that can address the challenges of our societies without extending citizenship or membership to individuals who are not part of the democratic polity.

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