COVID-19 Certificates as a New Form of Mobility Control

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The global volume of travel has grown steadily for decades and hence the border closures and travel restrictions in response to COVID-19 have created an unforeseen impact on the number of international border crossings. In air traffic alone the data show a striking 75.6% decrease in the number of scheduled international passengers. We might hasten to think that the strict travel restrictions due to the COVID-19 crisis have in principle treated mobile populations equally – for once we have all been banned from travelling. We could even consider the recent initiatives to introduce "vaccination certificates" as a fair and democratic way to reintroduce safe international travelling. In reality, the idea of a COVID-19 certificate is but a new layer in the broader landscape of highly uneven global mobility where travellers' citizenship and place of origin truly matter. This article discusses some of the major inequalities embedded in the global mobility regime and argues that the idea of the COVID-19 certificate as an equaliser remains completely disconnected from these underlying realities. To conclude, the article discusses problems related to uneven access to digital travel documents, such as the proposed COVID-19 certificate.

<H1>I. Introduction

The global volume of travel has grown steadily for decades. While there are no uniform data on the contemporary volume of international border crossings, recent estimates exceed two billion annually.[1] Key drivers of the growing level of international mobility include business and leisure travel, permanent and seasonal labour migration and movement for asylum and refuge. As one indicator of this growth, in four decades the number of domestic and international air passengers has risen more than tenfold, peaking at the record high of 4.54 billion in 2019.[2] This expansion has been continuous, with only short periods of economic recession and reactions to terrorism as exceptions in the trend.

A dramatic change occurred when the COVID-19 pandemic began to spread rapidly from China to other countries in early 2020 and most states responded with border closures and travel restrictions. This created an unforeseen impact on international border crossings. In air traffic alone the number of international passengers decreased by 75.6% in 2020, the aviation industry's "worst year in history".[3] In principle, we might think that the travel restrictions due to the COVID-19 crisis have treated mobile populations equally – for once we have all been banned from travelling. However, such a view overlooks the fact that the global mobility regime is strongly attuned to sorting between

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[1] R Koslowski, "The international travel regime" in R Koslowski (ed.), *Global Mobility Regimes* (Basingstoke, Palgrave Macmillan 2011) pp 51–72.
[2] IATA, "Industry Statistics Fact Sheet" <https://www.iata.org/en/iata-repository/pressroom/fact-sheets/industry-statistics/>.
[3] IATA, "2020 worst year in history for air travel demand" <https://www.iata.org/en/pressroom/pr/2021-02-03-02/>.

desired and unwanted mobility, with travellers from wealthy Western countries enjoying much broader travel opportunities than their fellow travellers from poor countries of the Global South.

Hence, the travel restrictions in response to COVID-19 are but one layer in the broader landscape of highly uneven global mobility, where travellers' citizenship and place of origin truly matter. In the contemporary mobility regime hundreds of millions of people in the Global South are eligible to travel documentation that only grants entry at few international borders, and many have no access to any documentation at all.[4] These issues did not surface with the present pandemic but have been problematic for the least privileged long before as part of the underlying inequalities of the global visa regime, where Western passports greatly overpower the weak or non-existent documents of travellers from the Global South.[5]

Similarly, the recent initiatives to introduce "vaccination certificates", such as the European Digital Green Certificate,[6] as a fair and democratic way to reintroduce safe international travelling need to be placed in the context of longer patterns of uneven mobilities. To this end, I first outline some wider histories and geographies of the passport as the prime travel document of the global mobility regime, one that despite its seeming neutrality has always been entangled with various vectors of social and political power. On this basis I argue that the very idea of the COVID-19 certificate as a great equaliser remains completely disconnected from the underlying inequalities of the global visa and passport regime. To conclude, I offer some reflections on the problems involved in the idea of a vaccination certificate as a supplement to the passport.

<H1>II. A short history of the passport in structuring uneven mobilities[7]

The global mobility regime has evolved over time, driven by interstate cooperation to identify and regulate moving bodies.[8] A key element in this regulation has been the quest for the reliable identification of those on the move, and for this purpose the passport has gained the position of an internationally recognised document with few rivals. While different kinds of written documents to ensure the safe passage of their holders have existed for centuries, in its modern use the passport is a relatively young institution that rose to prominence along with the increasing territorialisation of nation-states after the mid-nineteenth century.[9] Especially in the aftermath of the First World War, the passport gained functions tied less to the practicalities of safe travel and more to territorial states' concerns with national security.[10]

A key narrative thread in the history of the passport, and one that it shares with proposals for COVID-19 travel certificates, is the notion of standardisation; a standardisation that is also presented as somehow "democratic". Both passports as well as the proposed certificates have the appearance of a uniform travel document that routinises border crossing and treats its holders similarly

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[4] E Cohen, "Mobility regimes, subversive mobilities, and tourism" (2021) 26(1) Tourism Analysis 91.

[5] One illuminative assessment of the power of travel documents is the Henley Passport Index, which ranks passports according to the number of countries their holders can travel to without a prior visa; see "The Henley Passport Index" <https://www.henleypassportindex.com/passport>.

[6] European Commission, "Communication from the Commission – a common path to safe and sustained re-opening" <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52021DC0129>.

[7] Parts of this section are modified from text previously published in in J Häkli, "The border in the pocket: the passport as a boundary object" in A-L Amilhat Szary and F Giraut (eds), *Borderities and the politics of contemporary mobile borders* (London, Palgrave Macmillan 2015) pp 85–99.

[8] T Cresswell, "Towards a politics of mobility" (2010) 28(1) Environment and Planning D: Society and Space 17.

[9] O Löfgren, "Crossing borders: the nationalization of anxiety" (1999) 29 Ethnologia Scandinavica 5.

[10] J Torpey, *The Invention of the Passport. Surveillance, Citizenship and the State* (Cambridge, Cambridge University Press 2000).

independently of context. The standardisation of the international mobility regime took a major step forward in the 1920 League of Nations *International Conference on Passports, Customs Formalities and Through Tickets*, motivated by the Member States' twin desire of fostering at once international mobility and national security. The resolution adopted after the conference saw passports and border control procedures mainly as a temporary but necessary measure to stabilise the post-war world's political scene.[11] Yet, once established, the international passport regime was never lifted. In several subsequent League of Nations conferences over the 1920s the issue was discussed, and many countries expressed their wishes to dispose of the passport and return to a liberal peaceful mobility regime, but interests in controlling national security, the labour market and public health always overrode such aspirations.[12] In practice, this meant that a growing number of states began to require a passport as a means of personal identification from all travellers seeking to enter the country.

The ramifications of the introduction of the passport and new border control measures were deep and wide. The interrogation of the link between a piece of official documentation and a person's identity in border-crossing situations got entangled with various vectors of social power, new technologies of control and practices of social sorting.[13] The fact that many countries started to follow minutely the standardised format of a model passport, specified in detail in the 1925 Geneva passport conference resolution, did little to equalise the actual procedure and experience of border crossing.[14] To begin with, most international travellers at that time were members of the upper social strata, for whom the introduction of passport-based border control meant exposure to new "standardised ways of defining identity and personal characteristics", which earlier had been applied mainly in institutional procedures dealing with criminals, mental patients and vagrants. Much to the esteemed travellers' annoyance, in border control situations they now had to live up to their passport identity, which they had to prove to match.[15]

Second, because the passport became a proof of nationality as much as of personal identity, it began to project travellers under a nationalising gaze. In this sense, the passport was instrumental in naturalising the idea of a division between an us and a them, an inside and an outside, separated by national borders and territorial belonging.[16] The nationalistic sentiments and the sense of emergency that followed the First World War invited new forms of self-reflection and identity construction among the citizenry, for whom the passport became a technique and instrument of governmental nationalisation. As a person's nationality cannot be determined on the basis of physical appearance alone, the passport became indispensable in controlling the nationality not only of foreign travellers, but of the state's own citizens as well.[17]

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[11] These motivations and concerns are explicit in a resolution adopted five year later; see League of Nations, "Resolution adopted by the Conference on Passports, Customs Formalities and Through Tickets in Paris on October 21st, 1920" <https://biblio-archive.unog.ch/Dateien/CouncilMSD/C-641-M-230-1925-VIII_EN.pdf>.

[12] M Salter, *Rights of Passage. The Passport in International Relations* (London, Lynner Rienner Publishers 2003).

[13] D Lyon (ed.), *Surveillance as Social Sorting: Privacy, Risk and Automated Discrimination* (London, Routledge 2002).

[14] The model passport described in Annex 1 of the conference resolution specified the content and layout of the passport with details including number of pages, physical structure and size, materials, languages and personal details; see League of Nations, supra, note 11.

[15] Löfgren, supra, note 9.

[16] ibid.

[17] Torpey, supra, note 10.

Third, in naturalising the idea of territorial belonging, the passport helped consolidate the bondage between nationality, citizenship rights and territorial residence as the overarching norm of the sovereign state system. While states execute their sovereign right to control all mobility across their borders, this norm is particularly exclusionary for stateless populations and those forced to leave their countries of origin to seek protection abroad. For the territorially structured global mobility regime, the stateless appear as an anomaly, an aberration to be resolved in order to affirm and sustain the normative citizen/nation/state nexus.[18] The very terminology to denote migrants with irregularised status testifies to the central role of the passport in upholding the structures of territorial belonging and citizenship rights. Besides "unauthorised" or "irregular", these migrants are also commonly referred to as "undocumented" or "paperless" to underline that those without valid travel documentation are not entitled to legal residence.

Fourth, if the passport once was a document that granted its holder protection and place above reasonable doubt, with the securitisation of international travel it has come to symbolise suspicion and exposure to what Orvar Löfgren terms "new forms of anxiety" related to border crossing.[19] This anxiety, familiar to most if not all travellers, is related to the transgression, at the moment of border crossing, of several categorical binaries, such as home/abroad, citizen/alien, domestic/foreign, personal/public, bodily integrity/territorial integrity. Passports are carefully and suspiciously scrutinised to examine whether the travel documents are in order and whether they match exactly with the physical person that claims the identity.[20] The traveller's anxiety or unease that characterises border control situations reflects the *de facto* institutionally embedded discretionary powers that border guards hold as representatives of the sovereign power of the state. Although the decision to admit or exclude is seemingly systematised by legislation, international treaties and administrative regulations, in reality border agents need to pass a quick judgment on each traveller under so complex and manifold situations at the border that no uniform policy can abolish the discretionary power at play.[21]

This discretionary use of sovereign power is effectively obscured by the fact that most travellers from the Global North never encounter any trouble in border crossing. The mobile citizens from wealthier countries perhaps experience only a slight feeling of anxiety as a reminder of the uncertainty that pertains to the situation. However, for those travellers whose entry is denied, the sovereign power to expel is excruciatingly tangible, and they are exposed fully to the hierarchies of the global mobility regime and its capacity to regulate human corporeal mobility across territorial boundaries.[22] By looking at how the passport functions to, at once, facilitate vast amounts of desired global mobility and to obstruct unwanted mobility, we become attuned to the tension between the economy-driven and security-driven goals of the global mobility regime. The ideal of smooth border crossing for the global traveller is but one aspect of this regime attuned to filter out unwanted migrants and asylum seekers who often travel without proper documentation.

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[18] N Soguk, *States and Strangers: Refugees and Displacements of Statecraft* (Minneapolis, MN, University of Minnesota Press 1999).

[19] Löfgren, supra, note 9.

[20] P Adey, "Facing airport security: affect, biopolitics, and the preemptive securitisation of the mobile body" (2009) 27(2) Environment and Planning D: Society and Space 274; B Muller, "Risking it all at the biometric border: mobility, limits, and the persistence of securitisation" (2011) 16(1) Geopolitics 91.

[21] M Romero, "Racial profiling and immigration law enforcement: rounding up of usual suspects in the Latino community" (2006) 32(2–3) Critical Sociology 447; M Salter, "When the exception becomes the rule: borders, sovereignty, and citizenship" (2008) 12(4) Citizenship Studies 365.

[22] J Häkli, "Biometric identities" (2007) 31(2) Progress in Human Geography 1.

Finally, the passport as well as the proposed COVID-19 certificate align with yet another vector of social power related to the digital technologies of machine-readable and biometric travel documents. These technologies enable the digital images of travellers' bodily features to be compared with information contained on a microprocessor chip embedded in the passport. In the case of the COVID-19 certificate, the documentation does not stop at the surface of the body, but instead literally permeates the human body as an organism, accessing bio-information about the body's status in terms of vaccination, the (non)presence of the SARS-CoV-2 virus or the presence of antibodies to the virus.[23]

With machines instead of border guards verifying the validity of travel documents or the travellers' health against a set of digital certificates, we might think that access to mobility is determined in a more equal and impartial fashion. After all, machine-readable travel documents (such as the proposed EU "Digital Green Certificate" for COVID-19) with their unique QR codes allow for their automated examination, which diminishes the role of border guards' personal – and thus to some extent subjective – assessment of the travellers' status at border-crossing points.

However, there are good reasons to argue that the COVID-19 certificate risks only exacerbating the already existing steep inequalities of the hierarchically structured mobility regime embedded in the global state system (as Tazzioli also highlights in her contribution to this issue). First of all, no matter how well the COVID-19 certificate covers "every EU citizen and their family members", enabling "holders to exercise their right to free movement within the EU", there are large populations within the EU who do not enjoy citizenship rights and thereby will remain excluded from the provisions offered by the "Digital Green Certificate".[24] For example, irregularised migrants are already placed in the shadows of European societies that are increasingly operating on identification numbers assigned to citizens and legal residents. Progressive digitalisation has expanded the role of these identifiers and related strong authentication methods in the provision of social services, health assistance and even many commercial services. Hence, for irregularised migrants and their families, the digitalised COVID-19 certificate risks becoming yet another form of banal exclusion that reduces their possibilities for societal agency.

Moreover, there are populations for whom a digital COVID-19 certificate, or one printed on paper, gives few, if any, new possibilities for travelling due to a lack of economic means, work in precarious jobs or otherwise demanding life situations. When the European Commission offers the COVID-19 certificate as a pathway for "EU citizens … to again exercise unrestricted free movement and other fundamental rights throughout the EU", thus to ensure "the continuity of the internal market", it is clear that this pertains mostly to those European citizens and residents who are affluent and capable of exercising their rights as consumers and travellers for business and leisure.[25]

<H1>III. Conclusion

This article has outlined a brief history of the passport, which culminates in the introduction of biometric technologies as a new solution to the problem of identification in the global mobility regime. The digital COVID-19 certificate, proposed by the European Commission to coordinate the initiatives by individual EU member countries, pushes the digitalisation of travel documents into a new direction in response to the global COVID-19 pandemic. I have argued that while major power relations and structures underlie the global mobility regime, these tend to be overshadowed by the

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[23] European Commission, "COVID-19: Digital Green Certificates" <https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/safe-covid-19-vaccines-europeans/covid-19-digital-green-certificates_en>.
[24] European Commission, supra, note 6.
[25] ibid.

smoothness of border crossing, particularly for travellers from the Global North, who may take for granted the digitalised travel documents as the proof of their personal identity and now potentially also health status.[26] It is precisely the apparent routine character, the neutral technicalities and smoothness of automated border control that effectively naturalise digital travel documents as a technological extension of the traveller's body and thus shift attention away from the power relations of the global mobility regime.

The proposed COVID-19 certificate, in particular, risks deepening the divisions between affluent and disadvantaged travellers from the Global North and the Global South.[27] Even though the European Commission is keen to stress that "people without such a certificate must still be able to travel and that being in possession of a certificate is not a prerequisite of exercising the right to free movement or other fundamental rights",[28] such concessions are not extended to irregularised or partially documented migrants within Europe, let alone those seeking to enter the EU to seek asylum or protection from unbearable circumstances caused by violent conflicts, corrupt governments, struggles for natural resources, the erosion of livelihoods and changing climate.

Moreover, it is more than likely that if COVID-19 certificates become part of the travel routines to secure the European path to recovery from the pandemic, they will also become the new norm that will strongly guide actual bordering practices on the ground. When most travellers will be able to present their COVID-19 certificates at border-crossing points and these will be carefully scrutinised for their validity (either by border guards or by machine readers), a traveller without such a certificate is likely to stand out, cause suspicion and ultimately risk being banned from crossing the border (see also Kochenov and Veraldi's discussion on vaccines not approved by the European Medicines Agency in this issue). After all, the main purpose of the certificate is to curb the risk of travellers spreading the SARS-CoV-2 virus.[29]

In addition to this, the unpredictable and constantly changing situation caused by virus's mutations, with the subsequent need to update protection against the COVID-19 disease by means of renewed vaccinations, is likely to demand that the certificate remains a "live" document reflecting changes in the certificate holder's status in regards to vaccination, immunity and health.[30] The need to promptly update the certificate in order to access travel will present challenges to everyone, but it will even further exacerbate the exclusion of those already lacking digital citizenship and those in precarious life situations within the labour market, as well as with regard to their immigrant status and socio-economic standing.[31] For these vulnerable groups, the COVID-19 certificate risks becoming yet another hurdle in their continuous struggle for everyday survival.

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[26] See also D Wilson, "Biometrics, borders and the ideal suspect" in S Pickering and L Weber (eds), *Borders, mobility and technologies of control* (Dordrecht, Springer 2006) pp 87–109.

[27] For Global North/South inequalities, see, eg, M Hayes and R Pérez-Gañán, "North–South migrations and the asymmetric expulsions of late capitalism: global inequality, arbitrage, and new dynamics of North–South transnationalism" (2017) 5(1) Migration Studies 116.

[28] European Commission, supra, note 6.

[29] B Ajana, "Biometric citizenship" (2012) 16(7) Citizenship Studies 851; P Metcalfe and L Dencik, "The politics of big borders: data (in)justice and the governance of refugees" (2019) 24(4) First Monday doi: https://doi.org/10.5210/fm.v24i4.9934.

[30] Eg, P Schlagenhauf, D Patel, A Rodriguez-Morales, P Gautret, MP Grobusch and K Leder, "Variants, vaccines and vaccination passports: challenges and chances for travel medicine in 2021" (2021) 40 Travel Medicine and Infectious Disease 40.

[31] K Mossberger, "Toward digital citizenship. Addressing inequality in the information age" in A Chadwick and P N Howard (eds), *Routledge handbook of Internet politics* (Abingdon, Routledge 2009) pp 173–85.

The experiences gained in different parts of the world of the effects of the pandemic on global mobility could, ideally, lead to new insights and a new progressive politics of mobility capable of challenging some of the persistent inequalities embedded in the global travel regime. Unfortunately, the proposed COVID-19 certificates are firmly rooted in the "previous normal" and thus do not represent a progressive move to ensure equitable mobility. With the latter goal in mind, we should promote the right to mobility as a human right and work towards the improvement of the situation for those whose right to mobility has been denied long before and beyond the COVID-19 crisis.