

BOOK REVIEW

Dagmar Rita Myslinska, *Law, Migration and the Construction of Whiteness, Mobility within the European Union*, Routledge 2024, ISBN: 9781032007373

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In European Union (EU) legal and political discourse all Member States and their nationals are equal. However, in the lived experience of many European people, some are more equal than others. Both the aspiration of equality and the reality of inequality lays behind Myslinska's book, which investigates how the complicated dynamics of whiteness appear in the context of east-west mobility in the European Union.

The main argument of the book is that an anti-CEE (Central and Eastern European) sentiment is historically embedded in the EU and that the way in which mobility is regulated under EU law further entrenches the vulnerability and peripheralization of CEE nationals. Methodologically the work uses a mix of doctrinal analysis, qualitative analysis of legal discourses and quantitative data on the inequalities experienced by CEE movers. Specifically, the author attempts to offer a holistic critique of EU law and legal discourses in relation to CEE nationals by examining the eastern enlargement pre-accession and accession policies, the EU mobility and equality framework and to the lived experience of CEE nationals in general and in the specific case of migration to the UK. With this analysis, the purpose of the book is to contribute to critical whiteness studies by exploring the historical and contemporary inferiorisation and othering of CEE nationals despite their skin colour. Ultimately the book aims to demonstrate that white privilege is not homogenous, but rather interrelated to various cultural, social, economic and political markers.

In terms of structure, the book is comprised of 5 chapters in total. After an introduction which sets the scene of CEE mobility in the EU and explains the analytical contribution of the book, chapter 2 goes on to provide a historical overview of the EU project and the relation to the CEE states. This chapter attempts to reconstruct both the historical evolution of the EU and the representation of the East in this historical evolution. In detail, the author discusses the rhetorical construction of the EU as a western endeavour with western values before going into the specific political and economic dynamics that characterised the CEE region and its relation to the EU. After a brief presentation of the history of the region prior to the fall of communism, the author maps the various agreements that regulated the relation of the EU to the CEE after the fall of the Berlin Wall all the way to the accession. This chapter highlights the economic core of the EU project, the lack of any effective bargaining power on the part of CEE states and the imperial characteristics of the legal, political and economic framework that regulated accession.

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Chapter 3 explores in more detail the EU framework on free movement and equality. The chapter begins with quantitative data on CEE mobility to Western European States. It discusses the lived experience of exploitation and discrimination of CEE, the EU institutional approach to such experiences and the impact of mobility in both the sending CEE region and the receiving western states. After doing so, the chapter presents the EU free movement framework and the Racial Equality framework and discusses their inherent ineffectiveness when it comes to the racialization of CEE migrants. Following this, the author traces the transitional mobility derogations that guided the EU enlargement before examining how CEE nationals' free movement rights operate in practice after the end of the transitional period prescribed in the Accession Treaties. The examination goes through more recent attempts to curtail access to social rights from the 2008 economic crisis onwards and culminating during Brexit.

Chapter 4 turns to the UK as a case study and investigates how CEE nationals were treated in the UK before Brexit. After a short historical recount of the racialization of CEE nationals in the UK since the beginning of the 20th century, the author provides an overview of various policies that served to create a hostile environment for CEE nationals after 2004. Moreover, the author explains the particularly disadvantaged position of CEE nationals in the UK labour market and engages in a detailed analysis of the Equality framework in the UK and its applications in various labour related disputes.

The final chapter concludes the book by weaving together the threads that can be drawn from the analysis of the ongoing racialisation of CEE nationals in western Europe. The author suggests that anti-CEE racism is as an integral part of EU integration and that this is reflected in legal discourses and policies that further marginalize the CEE nationals.

In general, the book promises an exploration of the fractures of whiteness as they intersect with mobility, ethnicity and class and as they are embedded in the EU juridical, economic and political apparatus, but does it deliver? I agree with the author that the intersection of all these factors play into the lived experience of racism which CEE nationals experience, as well as that these factors are embedded in the EU framework, yet I find that the relevant investigation could be even more forceful and effective. In the remainder of the text, I will first discuss some interesting ideas which the book provoked before suggesting how the valuable message that Myslinska aims to convey could have been presented more effectively to an EU audience simply by restructuring it.

With this book, Myslinska aims to deliver two main messages: first, that the CEE region and the treatment of CEE nationals is positioned within a wider EU economic hierarchy that prioritizes western neoliberal states' interests, and second, that the European west has conceptualised the CEE region as ethnically inferior, not belonging to the EU and not properly white. While Chapter 2 sets the stage for the first message, and the author indeed demonstrates the wider economic hierarchies that have dictated the relationship between the CEE states and the EU, the analysis of free movement and its effects for the inferiorisation of CEE nationals is not as convincing for a series of reasons. First – and perhaps not as importantly – when reading chapters 2 and 3, I often asked myself 'who is the EU?' and how unitary any EU discourse can be. The author approaches this matter by taking some distance and qualifying extremely diverse material in what can be considered part of the EU legal and political discourse. While this is of value to the bigger story narrated by this work, and which

is set to be a contribution to critical whiteness and post-colonial studies, this prejudices the perception from an EU studies audience in general, and from an EU legal audience specifically. And this is because not all the discourses presented by Myslinska are of equal value as part of an EU legal discourse that allegedly constructs and consolidates identities.¹ In addition, Myslinska's analysis on the development of EU law and, especially on the evolution of the case-law would have been even stronger if it was contextualized against the vast amount of scholarship that examines why and how the relevant evolutions came about.² I am noting this first point because I believe that Myslinska's argument is valuable for both EU studies and EU law scholarship and that a more rigorous analysis in these chapters would make the argument more forceful.

A second point of criticism stems from Myslinska's assertion that CEE nationals' vulnerability is starkly absent from any discourse related to integration, discrimination and equality. She implicitly suggests that the EU should be protecting CEE nationals as well from xenophobia, discrimination and exploitation and that the relevant policies should not target exclusively undocumented migrants, ethnic minorities etc. And while the racialization of CEE nationals is aptly demonstrated by her presentation of their lived experiences, the same cannot be said of the analysis of the relevant legal framework. On this matter, Myslinska is not to be blamed, because an inherent problem of EU law and EU studies scholarship is the absence of a conceptual framework that could capture the interrelated problematic aspects in the regulation of migration and mobility in EU law. The racialisation of CEE nationals is hidden in the EU policy discourse because it does not fit how the EU positions itself in relation to the outside space. Specifically, throughout its historical trajectory, the EU has been and still is renegotiating the limits of who is 'us', the European citizens, the West which is so central to the EU imaginary.³ This European 'us' is equal, united in our diversity, and homogeneously white and it needs to be differentiated (or even self-created by juxtaposition) from the 'others' to whom we owe fair – but not equal – treatment and whose movement is subject to hard borders and security considerations. Producing and maintaining the 'us' vs 'them' divide in EU legal and political discourse is very much dependent on ignoring the hardships faced by EU migrants unless they belong to clearly circumscribed ethnic and religious minorities. On that specific matter, the analysis would benefit from closer

¹ For example, I found myself wondering to what extent the EU Jean Monnet Lectures can be considered iterations of an EU political and legal discourse. The role of EU as a core of European epistemic knowledge production is undisputed, but the place of the Jean Monnet Lectures for the construction of a representative EU discourse on the east-west relation would need more justification.

² The literature in the relevant area is so vast and has so many directions that it would be impossible to give representative examples without doing injustice to any scholar. In the relevant analysis, while some correlations hold true, others do not. For example, the change in Irish citizenship law in 2004 might have more to do with expansive judicial interpretations of the Court of Justice of the EU which conferred benefits for the EU's outsiders, rather than for the potential benefits it would create for CEE nationals. See the Case C-200/02 *Chen* EU:C:2004:639. Similarly, the judicial evolutions in the area of residence and social rights for EU migrants from the Judgment of the Court (Grand Chamber) of 11 November 2014 in Case C-333/13 *Dano* EU:C:2014:2358 to the more recent Judgment of the Court (Grand Chamber) of 6 October 2020 in Case C-181/19 *Jobcenter Krefeld* EU:C:2020:377 has been subject to many analysis on the limits of EU citizenship, the constant prioritisation of workers' rights and the lack of protection of precarious EU citizens in general which would significantly enrich Myslinska's examination.

³ The fall of Berlin wall brought about a reconfiguration to include CEEs to the West as Myslinska rightly shows. The Russian attack to Ukraine reconfigured again the boundaries of Western belonging to include Ukraine, the Balkans, Georgia as suggested by Luuk van Middelaar in the Public Lecture 'Europe's new strategic map, one year after the "Zeitenwende"', 15 March 2023, Hertie School, Berlin.

engagement with interaction of ‘eurowhiteness’ and ‘dirty whiteness’ and their relation in shaping the western European identity.⁴

Another issue that would merit closer attention in the analysis is the central position of economic vulnerability in the structure of EU free movement law, which is not specific to CEE nationals. Myslinska criticizes the EU framework for being too vague, for not being properly monitored and enforced as transposed in the Member States and for the limitations it poses to the movement of more vulnerable CEE nationals. However, all the points of criticism she identifies hold true for all the precarious EU migrant workers that move between the Member States. The central position of class in the experience of mobility is acknowledged in the introduction and conclusions but concealed in the analysis of the EU legal framework. More emphasis on how class operates in the EU legal system and how it excludes from protection all the vulnerable and precarious EU migrant workers would have allowed for a more nuanced description. Such a nuance would also explain the fact that as regards EU migrant movement, the east vs west divide is perfectly complemented by the south vs north divide and that both these divisions serve to cater the interest of developed neoliberal Member States. Eventually, the EU free movement framework and the inequalities it produces overcome geographic divisions and operate under the labour vs capital division with clear prioritization of the latter.⁵

By this I don’t mean to suggest that CEE nationals are not inferiorised in their mobility, but rather that in the EU legal framework it seems that their precarity is more central than their ethnicity. And such precarity is found across all the less developed economies of the EU which have been historically supplanting labour power to the western and northern economies. Relatedly, Myslinska’s suggestion that the transitional periods in the South Enlargements could be seen as justified, whereas this is not the same for the transitional periods in the Eastern Enlargement could also be structured in a more convincing manner. It is not the transitional regimes in mobility that made the Eastern enlargement unique, but rather the discretion left to the EU Member States to unilaterally decide how they would apply them. And in my mind, it is this unprecedented unilateral discretion that is more closely tied to a populist rhetoric about the dangers CEE nationals could pose to EU economies. Similarly, it would be helpful to reflect on the differentiation of Eastern Enlargement and the accession negotiations in relation to the Maltese and Cypriot accessions which took place in parallel.

Moving to the second message of this book that that the (EU) west has conceptualised the CEE region as ethnically inferior, not belonging to the EU and not properly white. I would suggest that this shines through Myslinska’s captivating analysis of the CEE nationals’ treatment in the UK. The relevant chapter situates the CEE assumed inferiority in a longer historical context and eloquently weaves the past to the present equality framework and its application in labour related disputes. However, the reason why the UK is chosen as a case study is not clear. While Brexit brought to the foreground extreme racist discourses against EU migrants, and indeed the chapter does demonstrate the racialized othering that CEE

⁴ József Böröcz, “‘Eurowhite’ Conceit, “‘Dirty White’” Ressentiment: “Race” in Europe’ (2021) 36(4) *Sociological Forum* 1116. See also Hans Kundnani, *Eurowhiteness: Culture, Empire and Race in the European Project* (Hurst Publishers 2023).

⁵ See Alexander Somek, ‘From Workers to Migrants, from Distributive Justice to Inclusion: Exploring the Changing Social Democratic Imagination’ (2012) 18(5) *European Law Journal* 711.

nationals experience in the UK, the author nowhere tells us why it is this (former) Member State and not another state that needed to be examined for the purposes of the specific investigation.⁶

In the concluding chapter, Myslinska suggests that her findings demonstrate that CEE migrants' experiences should be understood through the intersection of CEE nationals' position against the background of broader economic hierarchies in the EU and the historical conceptualisation of the CEE region as inferior. As a reader approaching the book from an EU law disciplinary lens, I am questioning the extent to which this was effectively demonstrated by the book. This is because Myslinska indeed shows that EU interests have historically been prioritised over CEE ones, and that the CEE is construed as equal partner when it fits Europeans aspirations but treated unequally when it doesn't. However, to show that the same applies when it comes to the specific case of mobility across EU borders, more engagement would have been necessary with the element of class. This would both nuance and enrich Myslinska's analysis by connecting the east vs west with the north vs south and ultimately with the labour vs capital division as they are produced and consolidated in EU free movement law. While I was left fascinated and astounded by Myslinska's analysis of the way in which CEE nationals are historically and contemporaneously racialised as inferior others in the context of the UK legal system, I was not equally convinced of how this appeared in the relevant analysis on the EU. Or to put it differently, while understanding that the racialization of CEE nationals is a lived reality across EU Member States, I am not entirely sure that the way in which the EU legal system structures it is so fundamentally different from the racialization of southern Europeans, especially after the economic crisis.

Overall, Myslinska's book aimed to deliver a powerful message about the position of CEE nationals in the EU legal, economic and political system, and position of othering and inferiorisation situated at the intersection of ethnicity, class and mobility. However, if one were to read Myslinska's book as it is, they would discover two separate stories: one about the economic imbalance ingrained in the EU and the vulnerabilities it produces, and a second story about labour exploitation of CEE nationals in the UK and the ways in which the legal system produces and perpetuates it. Both stories are equally powerful and valuable. In my opinion, the reason why it is hard to weave these two stories together is because there is no sufficiently developed theoretical and conceptual language that can explain how and why 'us', the European citizens presumably sitting at the centre of this legal order can simultaneously be 'us', the vulnerable migrants with precarious jobs, constantly racialized and inferiorised as Myslinska demonstrates. To understand these two stories as one, I would advise the reader to read Myslinska's book in reverse. The concluding chapter offers the most powerful introduction to the grave consequences of the racialisation of CEE nationals and to the simultaneous invisibility of this racialisation from the EU discourse. If the reader were to start from there and to then move to how law historically produces and consolidates this inferiorisation in the UK, before proceeding to the bigger pictures of the CEE region, its position to the west after the fall of communism and the pressure to liberalize national economies with practically no agency in the relevant negotiations, then the message would

⁶ Dagmar Rita Myslinska, *Law, Migration and the Construction of Whiteness, Mobility within the European Union* (Routledge 2024) 160, in the introduction of the case study, the author mentions that the tensions experienced in the UK are in many ways comparable to other Member States.

come through more effectively. Reading the book in reverse has the potential of making the argument more convincing to an audience well beyond critical whiteness and post-colonial studies. Indeed, readers versed in EU law and EU studies in general would benefit from being exposed to Myslinska's argument.