

# The significance of international migrations: Global justice, human rights and citizenship<sup>1</sup>

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When tackling issues related to international migrations, it becomes increasingly more evident that we are dealing with matters subject to interpretation. Therefore, it is a question then of starting to build a framework through debates that will provide grounds for this interpretation which will, in turn, enable us to generate arguments with which we may construct discourses and legitimize policies. From this point of view, the idea that international migrations constitute one of the main factors in the big social and political transformations of our time is already forming part of the battery of recognitions of the interpretative framework for political and social discourse (see G. Aubarell and R. Zapata, ed. 2004). Maybe there are two questions, which I consider essential, that still require to be discussed in order to start building this interpretative framework: the fact that international migrations require a global reflection on the relationship between distributive justice and human rights; and the pertinence of specifying the characteristics that give this global process a historical sense. I will defend two complementary arguments for each one of these questions. From the viewpoint of justice and human rights, there is a need to redefine an international framework that, for the time being, only has public management instruments. Even human rights, as we will immediately see, can only be defended under the filter of the State. On the other hand, from a historical point of view, international migrations form part of a period where the usual instruments employed to handle conflicts arising from modernity do not work out. In this case, the modern way of managing immigration has many similarities to the one in the Middle Ages that it intended to supersede. We shall dedicate the rest of this article to extend each of these arguments.

## Global process: Human rights and global distributive justice

The processes of international migrations must be understood as global processes. They give rise to a debate on the relationship between immigration, human rights and global distributive justice. From the start, by accepting that the international migration process is directly connected with the globalization process, we agree on the fact that they have a characteristic that binds them together: their historical inevitability. What must be discussed is not whether our societies shall be multicultural or not (we assume they will have no other option than to be multicultural) but how to manage this process without damaging the values which coordinate our societies and institutional structures. Moreover, it is curious that, although the globalization process has generated alternative movements and global social forums against a certain way of understanding this economic globalization that lacks global distributive justice, the process of international migrations (since it is a globalization process not of capitals or goods but of people) generates conservative movements opposed to it. In fact, these movements only realize the net earnings from economic globalization. This constitutes a picture of a certain political hypocrisy but also of some social irresponsibility. *We want to benefit from economic globalization, but we do not want to deal with one of its effects, the process of international migrations.* We have not yet assumed that both processes are two sides of the same coin. These processes are not different but, rather, they are both very closely connected.

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<sup>1</sup> These arguments form part of chapter 2 (paragraph 2.2; pages 94-105) of the book from R. Zapata-Barrero *Multiculturalidad e inmigración* [Multiculturalism and immigration] (Madrid, Publishing Company Síntesis). The whole text was published in Catalan on the monographic issue of the journal *Transversal* (Ajuntament de Lleida), edition number 24 (2004); 66-72, entitled "*Les migracions internacionals: process global i historic*".

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What we must accept then is that the globalization process is a process of international migrations and that one of its effects is the increasing movement of people from the poor countries to our rich States. One of the most visible indicators of globalization is the increase in the movement of people across borders. This movement is partly caused by the globalization process itself, which involves not only the increasing circulation of capitals and goods but also of values, knowledge, intellectual elites and qualified personnel. Opposite to this positive side of globalization (for whom?), there is also its most miserable face, of forced immigrants, with very low skills or even unskilled, lacking values or with non-western values and with cultural ways of life that are very different to ours. This globalization process can hardly be controlled by the governing elites. It is one of their priorities (when our leaders publicly declare that immigration constitutes one of the priorities of their policy, we can start to quiver) and the way they handle it can be a determining factor to win an election. This second type of effect of globalization understood as the movement of people serves as foundation for those speeches that criminalize immigration or simply declare it illegal. This process is unstoppable. Although control efforts are progressively increasing, the growth of this immigration is unavoidable. This is partly due to the fact, which we must accept, that it forms part of the globalization process itself. The global transformation process (D. Held *et al.* 1999) that is currently taking place also implies the circulation of forced immigrants. From an economic point of view, the increasing differences between North and South create a whole system of reasons sufficient for certain people to opt to leave their countries with the aim of improving their lives and having certain life expectancies that go beyond the mere survival.

From a political point of view, the process generates a debate on human rights. The fact that thousands of people opt to leave their countries using legal transport channels, or “through channels out of desperation”, is a question that concerns human rights. Although there are many voices that suggest that “we cannot accept all those people who are knocking (hammering) on our doors”, from this perspective we must assume that these “bangs on the doors” are actually “desperation blows” similar to those given by the second or third class passengers when the Titanic was sinking. They had no way of escaping, while the first class passengers ran off with the limited life jackets and lifeboats available in such an event. This is the reality and it is this reality which requires realistic policies.

Therefore, the process of international migration between the South and the North forms an inherent part of the globalization process. Western governments should accept that this movement is their responsibility and not the issuing countries’ responsibility. Policies that punish countries issuing immigrants should not even be put into words, which was the case during the EU summit held in Seville in 2002 under the Spanish presidency. The simple fact that such measures were discussed as part of the European agenda shows the confusion expressed by the States and the type of reactions they have when they consider immigration as a prime issue, as shown by the conclusions reached at the summit. *From the moment when people from a certain country opt to leave it, a human rights problem arises and its final responsibility falls on those countries which hold an attraction because they are financially superior and because they are organised around democratic and liberal values that issuing countries do not have.* Immigration will stop when economic inequality in the world, symbolized by the South-North relationship, stops being important. In the meantime, the process will not stop. It will just continue being a privilege for rich first class people from the issuing country, allowing them to get back on their feet, and it will just be degrading for the poor second-class citizens from the country of origin.

We must then start from the assumption that the international migratory movement is an issue that concerns human rights because of two reasons: on the one hand, the “exit option” is a forced option (the normal thing for people is to stay in their countries) and, on the other, the increasing confirmation of the fact that the action of leaving one’s own state reduces the possibility of defending one’s human rights. These two basic reasons reveal that the protection of human rights has been thought up to be managed by the States. Human rights had not been thought up to protect and handle conflicts of people living out of their countries (B. Ghosh, ed. 2000). In the international migration process, human rights have difficulties in being used as foundation to legitimate policies. From the moment that a person leaves his State, the mechanisms that protect human rights get complicated since they depend on the States, and these States have the monopoly on the “right of admission” and the “right of recognition through rights”.

In the language we have introduced on the First Part, international migrations reveal that human rights have been thought up to handle issues on the basis of the *Holy Trinity* (relationship between citizenship, nationality and the State). This shows that the State-nation continues to be the hegemonic standard of reference to manage situations which are outside its *jurisdiction*. That is why when this holy

bond shows its first fissures, the human rights discourse itself has difficulties in finding management instruments, since the main traditional frame of reference that acted as authority to which it was possible to appeal in case of human rights infringement disappears. The “right of admission” of the States is a *holy* right.

All in all, we have to consider the international migrations process and the immigration question as issues belonging to the discussion about the distribution of justice, of wealth in the world. At this level, the basic elements of the discourse refer to the contradiction existing, according to international treaties, between the freedom of movement for people, but not for the States to accept immigrants. For example, if we focus on the criteria for admission, we confirm that they express new forms of discrimination based on birth<sup>3</sup>. We know that every political decision based on criteria that do not depend on the person’s will but on reasons concerning one’s birth, is inconsistent with the most essential grounds for democracy. International migrations reveal increasingly more clearly the fact that crossing borders is in some sense like travelling in a time machine, given that it takes us back to pre-democratic and pre-modern times where the principles of birth and inheritance predominated as the basis of social and political organization.

In this global context, there are two opposing logics that come into conflict: the logic of the market, which does not “know” about borders, and the political logic, with realistic arguments that enable it to reserve its right of selection at entry (J.F. Hollifield, 2000). This global frame still has a medieval structure. The selective discrimination and different treatment given by the States at the entry through our borders for reasons that do not depend on will but on birth, reinforce this medieval scene. Selective admission at this access level is an additional sign of the survival of ideas from the Middle Ages. In this context, the efforts made to understand the asymmetry between the movement of money and the movement of people, or the sentence *if people were money* (R. E. Goodin, 1992), take on a meaning. The different treatment of people when it comes to decide “who is allowed to enter” (selective admission) infringes human rights as long as it discriminates people for reasons that do not depend on their will, but on properties concerning their birth. What we are discussing is not simply selective admission, but that admission which employs racist criteria with the aim of discriminating. The different treatment of people following birth criteria is the most explicit example of infringement of human rights. Who is infringing them? The poor countries?

The international migratory movement is in a certain sense like a “new exodus”. If the rural exodus was the movement that symbolized the advance from the Middle Ages to the Modern Age, the latter characterized by the emergence of cities as a new symbol of prosperity, at present this exodus takes place from developing to developed countries. States have not yet recognised this exodus as a human rights related issue. Continuing with this time image of change of eras, to be a citizen of a developed country, to be “westerner”, is like being a member of a “new aristocracy”. In this regard, citizenship historically has clear similarities to a “nobility title”. Furthermore, declaring that citizenship has turned into a sign of a new *privilege* has an etymological sense, since *privi-legde* means “protection of the private”. From a global point of view, citizenship is seen, mainly by those who do not have it, as a private property, and nationality, understood as its foundation, as an inherited property. But this is a private property that has the same characteristics as a monopoly, since it is by means of it that we can have the other properties. Therefore, citizenship is becoming a basic primary good without which a person cannot experience the aspects of a good life. As a fundamental private property, it has similar characteristics to those of the other traditional material properties: it is a sign that marks social differences. However, in contrast to the other properties, citizenship is obtained involuntarily, by reason of birth. And it is precisely this privilege of birth which makes it into a new sign of survival of the ideas from the Middle Ages in our modern society.

If we consider, moreover, that willingness and unwillingness are one of the distinctive characteristics of liberalism, obtaining citizenship as a privilege of birth against those who do not have it but live in our territory becomes a new argument of an aristocratic regime where the “best” govern over people without the same rights. The term *peoples* as it was understood in Rousseau’s political theories and by the enlightened thinkers does not have the same meaning as the term *peoples* we use nowadays. From a global point of view, peoples at present are known as immigrant population, and the peoples from Rousseau’s times have turned into a “new aristocracy”. It is only by realizing the effects of the international migrations process from this point of view, that we will have enough arguments to create really alternative discourses.

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<sup>3</sup> For more detailed information, see R. Zapata-Barrero, *Multiculturalism and immigration*, Cit. Chapter 1 of the Fourth Part.

Although we have already offered many arguments that back up the confirmation of the fact that the international migration process, as a global process, has characteristics which suggest a return to the Middle Ages in our modern society if it is not properly handled, this fact shall be even more obvious from a historical viewpoint. In our history, there had never been such a long distance between political structures and the social reality they intend to govern. We are faced with a process of configuration of multicultural immigrant societies, but within public political frameworks designed for strictly national societies. When there is such a wide gap, the only way of adapting to reality is to change political structures. This structural change shall be even more justified when we analyze this process of international migrations from a historical point of view.

### **Historical process: immigration, citizenship and nationality.**

The international migration process understood as *a historical process* puts the *relationship between immigration and citizenship* at the epicentre of the debate. From the viewpoint of the consequences derived from the process of international migrations, we can share the confirmation of the fact that we cannot tackle the debate but in terms of citizenship. Indeed, if we seriously consider the modern paradigm that we have called the *Holy Trinity*, made up by the triangular bond between State, Nation and citizenship, then the process of international migrations entails supporting the idea that we are living a process similar to what M. Weber called *demystification* or *disillusionment*. In those days, this demystification basically pointed to the separation between Church and Politics or to the opening-up from a monastic way of organization to a bureaucratic organization of society. In a similar way, this new period questions the essential pillar which holds the monopoly of our beliefs and loyalties: Nation and nationality. This new process could be described as the separation between nationality and politics. This basically means that, since religious arguments are not historically employed to justify the use of political power (deep down, this is the real meaning of the separation between Church and politics), at present we are witnessing a historic process where arguments based on nationality and Nation, on the *Holy Trinity*, neither legitimate the use of political power nor articulate the differentiation of classes.

What this new process also reveals is that there are fewer reasons every day to support the supposed neutrality of the State. In general, the phenomena attached to multiculturalism are also arguments which show that the State is neither benevolent nor neutral. We can also add that the so-called “state neutrality” is proving to be an illusion that has the nature of a myth. In this regard, the bond between multiculturalism and citizenship contributes to this process of *demystification*. The state neutrality attains the condition of the latest modern utopia.

Likewise, if we focus on the political use of nationality to resolve questions connected with multiculturalism, we also clearly notice that the principle of birth and inheritance still governs political decisions. The fact that people’s life, even their destiny, is determined by their birth had not been seen so clearly since the medieval period. This principle of birth is not material, but it does have characteristics which are similar to the principle on which Benjamin Constant based his political thinking: these days birth does not confer membership to aristocracy; instead, it confers a nationality. Constant, one of the first convinced constitutionalists and republicans, used this precise principle as one of the strong arguments against which it was necessary to fight relentlessly. The principle of inheritance was the most solid basis on which all the social and political reality that had to be rejected was grounded.

Like in Constant’s times, we have to put, then, at least a question mark on nationality, the same as we put before on the membership to aristocracy. At present, the “myth of blue blood” is known as “being French de *souche*”, “being Spanish by origin”, “being X by birth”. When we examine the world from a historical viewpoint, this is a sign of the Middle Ages in our times. All these arguments show that discussing about phenomena connected with multiculturalism and citizenship has an unquestionable “revolutionary” nature, the nature of a process of a change in paradigm. If when we advanced from the medieval period to modern times, one of the greatest achievements of our historical time was that birth stopped being the foundation and basic criterion for explaining inequalities (understanding by birth not only the physical fact of being born but the fact of having physical, cultural or simply character traits which do not depend on one’s will) the current situation in which immigrants live entails a return to the Middle Ages. It is as if we are taking a new look at history books, but from the perspective of the news on television and the front pages of newspapers. Once again, the principle of birth has an unprecedented social meaning, equivalent to having or not having rights, to being or not being allowed to have a public identity.

At this point, there are “medieval practices” that become more evident, which again have the principle of birth as core of discussion. Maybe the author that has better described the historic moment we are witnessing is J. Carens, who invites us to think about this time period as follows: “do consider the freedom of movement bearing in mind the liberal criticism against the feudal practices that determined the life prospects of people on the grounds of their birth. Citizenship in the modern world is something similar to a feudal status in a medieval world. It is granted by birth; in most cases, it cannot vary according to the person’s will; and has a direct impact on the life prospects of the very person. The fact of having been born a citizen in a well-off country such as Canada is like having been born within the nobility (even if many belong to a low nobility). The fact of having been born a citizen in a poor country such as Bangladesh is (for the most part) like having been born within the peasantry in the medieval period. In this context, restricting the entry into countries like Canada is a way of defending the privilege of birth. The liberals have criticized the way in which feudalism restricted freedom, including freedom of movement from one place to another in search of a better life. If feudal practices were erroneous, which reasons can we use to justify modern practices? (Carens, 1992; 26-27. In the original article in Spanish, translation by the author).

On this basis, we could even entitle this section as *on the principle of inheritance in the 21<sup>st</sup> century*. In this case, this principle of birth is called *nationality*. In fact, it is like uncovering its etymological origin. The words *nación* (nation) and *nacionalidad* (nationality) come from *nacer* (to be born), that is to say, the one who has been born. At this point, we should seriously discuss without preconceptions Pascal’s sentence “*la naissance n’est pas un avantage de la personne, mais du hasard*” (*Pensées*, paragraph 312). *Immigrants are victims of the chance of birth*. The principle of birth is becoming a new criterion of advantage which should be considered when setting the bases of a theory of global justice. At this point, the “mirror effect” caused by immigration takes on a special meaning, insofar as it obliges us to think twice about democracy. This historical process also reveals that the acquisition of rights has never taken place due to the States’ benevolence, but it has been the result of continuous struggles and demands. The distribution of citizenship is a political issue, it is one of the most important public distributive policies. We must clearly understand that by granting citizenship, a privilege is being conferred. From a historical point of view, the international migration process and the permanence of immigrants in our societies reinforces the fact that being a citizen is equivalent to having the chance of benefiting from the advantages of democracy. The advantage of citizenship and the advantage of democracy are connected. A non-citizen does not live in a democracy.

As a historical process, the immigrants’ movements today are similar to the workers’ movements that characterized the passage from the 19<sup>th</sup> to the 20<sup>th</sup> century. In the history books of the future, the passage from the 20<sup>th</sup> to the 21<sup>st</sup> century shall be undoubtedly remembered as that of the movements of immigrants. The reasons for the protests are very similar: Rights, access into public life, being able to have a decent life. This shows that through history, citizenship has always been obtained according to criteria that in the end depended on political decisions. Thus, the criteria of property and gender have been superseded, but there is a criterion that remains in force: the criterion of birth and inheritance; i.e. that of nationality. In this sense, the historic moment we are witnessing is questioning this criterion of nationality. Likewise, when the nationality gap is linked to wealth differences, then a new poor class appears. Marginalization and national origin start to be connected<sup>4</sup>. As a sign of return to the Middle Ages, we can also reconsider the discourse, very widespread amongst some circles, that states that we should not only talk about the immigrants’ rights but also about their obligations. This means that when we talk about immigrants and their demands, we only talk about rights, but we forget that they must have obligations towards ourselves and our community, in the same way as we, as citizens, are submitted to a strict system of civic obligations. This discourse is legitimate when we deal with it outside the political context, but if we analyze this argument from a historical point of view, we realize that there are again medieval practices in our modern society. Actually, if we follow the line of argument of the famous political scientist N. Bobbio, set out in a book seldom mentioned but with a great content, *El tiempo de los derechos* (1991), we shall have a strong argument that at least puts exclamation marks on its response to the, let us call it this way, *duties’ discourse*. “The traditional point of view [i.e., medieval] had the effect of conferring onto individuals not rights, but preferably duties, starting with the obedience to the law, i.e., to the sovereign’s mandates”; later on, he continues stating that “the declarations of rights were intended to knock down this

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<sup>4</sup> See this question in R. Zapata-Barrero, *Multiculturalism and immigration*, Cit. Section 1.4 of the Third Part.

image” (Bobbio, 1991: 146). This means that the traditional relation between leaders’ rights and subjects’ duties is absolutely reversed. Subjects are also the bearers of rights. This *fundamental inversion* that characterizes the advance from medieval to modern times has been described by Bobbio as follows: “In the relationship between individuals, now rights come first and then duties; in the relationship with the State, duties are first and then rights” (Bobbio, 1991: 107).

Indeed, extending those rights is always presented as the great innovation of our modern times in contrast to the preceding medieval period. The foregoing entails that equal rights shall apply to all human beings without exclusion. Following this reasoning, every time we realize there are persons who live among us but who do not enjoy equal rights, whatever the justifications for that may be, the objective fact is that we are witnesses to the declining of the image of modernity. Continuing with this simile, today we have then two discourses that describe two superimposed pictures. That of the modern age, on which it is evident that rights have not only been extended but they have been put before duties and obligations; and a discourse that depicts a medieval scene, on which the person is burdened with duties even if he/she does not enjoy all the rights conferred. The passage from medieval times to the modern age meant precisely that *fundamental inversion*. Rights became universal and equal for all, and duties were required as a result of holding rights and not the other way round. If we apply this argument to the *discourse of duties* that some people set aside for immigrants, the picture we are outlining has a certain “medieval air” insofar as immigrants are being burdened with duties but they are not being granted rights equal to those of citizens. When it comes to elaborating discourses about the way of managing the process of international migrations, even if this is involuntarily done, we must be careful not to fall into medieval reasoning.

In 150/200 years, our era will probably be studied as a Return to the Middle Ages. This is a fact that cannot leave us indifferent. Future history can be straightened. A fair distribution of wealth and an interpretation of human rights which supersedes the iron cage of States are at this moment in time the only real ways of finding possible solutions. The fact that a person is forced to immigrate against his will cannot at all be considered as normal at this late stage of our civilization process.

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