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Causes and Consequences of International Migration:

Sociological Evidence for the Right to Mobility

Abstract

Human rights declarations provide for the right for any person to leave their country, yet do not provide for the right to enter another country, stopping halfway in asserting a right to mobility. In this article, we provide evidence that 1) state policies and actions create migration flows; 2) migrants often travel to fulfill their human rights; and 3) current restrictions on immigration curtail migrants' human rights. We argue, based on sociological evidence, that the right to mobility is a fundamental human right, and deserves a place in human rights doctrine.

Keywords: Family Separation, Globalization, Human Rights, Interdependence of Human Rights, International Migration, Right to Mobility

Causes and Consequences of International Migration:

Sociological Evidence for the Right to Mobility

Juanita is a Peruvian woman in her sixties who has dreamed of moving abroad since she finished secretarial school over three decades ago and found herself unable to earn enough money to move out of her parents' house. Her dream was realized when she migrated to Venezuela in the 1980s, but was cut short by the economic crisis there and she found herself back in Peru. She intended only to stay long enough to get back on her feet. Juanita watched three of her brothers and three of her sisters maneuver ways to travel to the United States, France, and Spain. Her own attempts to improve her situation through emigration have failed continuously. Juanita has been unable to find work, and her husband pieces together a living as an itinerant laborer. They depend on remittances from Juanita's siblings for anything in life beyond daily sustenance. Although Juanita recognizes she is now too old to travel abroad and work, she hopes her teenaged children will be able to leave. For Juanita, a poor woman in a developing country, emigration to a developed country seems to be the only way to attain financial stability.

Melissa is a US citizen who fell in love with and married a Brazilian, Sergio. After they met, Sergio returned to Brazil for vacation. When he returned to the United States, he married Melissa and applied for legal permanent residence. His application was denied and he was ordered

deported: unbeknownst to him, Sergio had violated the terms of his temporary visa in the United States by leaving the country after over-staying his visa and then re-entering without staying outside the country for the requisite time. Sergio's deportation order forced Melissa to choose between abandoning her right to remain in her country of birth and her right to be with her husband, as Sergio will never be able to live legally in the United States.

Juanita's and Melissa's stories revolve around the tension between the right to mobility and the right to have other human rights realized. For Juanita, the right to a decent standard of living has been impinged upon because of her inability to emigrate to a wealthier country. She has the right to leave Peru, but has not been able to gain permission to enter the countries where her siblings live: the United States, Spain, and France. Juanita desires more than the right to emigrate from Peru; she would like the right to immigrate to a country where she has familial ties and the possibility of economic betterment. Melissa has the right to leave the United States, but her husband's lack of the right to remain in the United States means that she was forced to choose between her right to territorial belonging in her country of birth and her right to form a family. Melissa opted to annul her marriage.

In this article, we explore the tension between the right to mobility and other human rights and advocate for a sociological perspective on the right to mobility. We first establish that international human rights doctrines do not offer the right to mobility, insofar as they provide only for the right to

leave one's country, and not to enter in any other. We then demonstrate how sociological research on international migration can provide a critical contribution to the debate over a right to mobility through the provision of sociological evidence of the interdependence between the right to mobility and other human rights as well as states' responsibilities for the human rights violations provoked by restrictive immigration policies. As Ruhs¹ pointed out recently, in so far as migrant rights are in practice closely tied to the rights of other groups in the receiving societies (e.g., workers' rights), migrant rights need to be examined in relation to admission policies. Thus, the interrelationship between migrant rights, the right to mobility, and national policies of admission must be examined in conjunction.

We are cognizant that the link between human rights and mobility has tended to fall within the purview of scholarship on refugees, forced migration, and human trafficking.² However, as Castles and Loughna³ have argued, the distinction between economic and forced migration is largely bureaucratic. Many migrants are forced to migrate to escape dire economic situations caused by political decisions, while many refugees are also fleeing economic deprivation, and individuals often bring up economic reasons for migrating, even from politically conflictive regions.⁴ Therefore, we find it useful to project a human rights perspective onto forced as well as voluntary migration to more generally link the human rights discourse and a right to mobility. The sociology of immigration and, in particular, the scholarship on transnational flows⁵ provides a solid backdrop to make the necessary

conceptual links between countries of origin and destination. Paralleling Sen's⁶ conceptualization of a right to development, a right to mobility gives priority to the freedom to move and the right to do so to realize a fundamental aspect of individuals' well-being.

The Human Rights Tradition and the Right to Mobility

Human rights doctrine includes a broad range of rights relevant to migrants. Article 13 of the Universal Declaration on Human Rights (UDHR) states "Every person has the right to leave any country, including his own, and to return to his country." Several family and community rights pertinent to migrants are enshrined in the UDHR. Article 16 posits that the family is "the natural and fundamental group unit of society." The right to family unity—in whatever form or expression of the family—is crucial for migrants, as family reunification and separation are both characteristic of international migration. Article 17 puts forth the notion that everyone has the right to "participate in the cultural life of the community." The UDHR also sets out social and economic rights that pertain to international migrants. Article 23 of the UDHR reads, "Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment." And Article 25 states, "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services." The rights to employment and to an adequate standard of living are often both the basis for emigration as well as rights migrants

struggle to attain in the host country. The civil and political rights set out in the UDHR also apply to migrants, including the right to seek asylum (Article 14), the right to due process of law (Article 10), and the right to freedom from arbitrary detention (Article 9). Although international migrants often are unable to engage in formal political participation, the human rights tradition provides civil and political protections for them, no matter their citizenship status.

In addition to the UDHR and other declarations which contain provisions relevant to migrants, the United Nations has put forth a convention specific to migrants, titled the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPRMW). This Convention was adopted on 18 December 1990 and entered into force on 1 July 2003, after a threshold of 20 ratifying states was reached; it currently has 57 signatories – none of which are among the wealthy receiving countries of international migrants. This Convention goes farther than previous UN conventions in terms of the rights and protections of migrant workers. For example, Article 44 stipulates: “States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society, and the State shall take appropriate measures to ensure the protection of the unity of the families of migrant workers.” The Convention further stipulates that migrants and their children should have access to social services, housing, health care, and to protection from exploitation. In addition, the Convention sets forth that

migrants shall enjoy equality of treatment as nationals of the State, access to education and vocational treatment, health and human services, and housing, and should have the right to transfer their earnings and savings, particularly funds to support the migrants' families. Finally, it specifies that States should pursue policies to facilitate the integration of children of migrant workers into the local school system.

Thus, the human rights tradition provides for the right to emigrate, and specifies protections for those who are able to do so. The right to enter another country, however, does not form part of existing human rights conventions and treaties. In the prevailing human rights tradition, the "freedom to leave is a more fundamental right than the freedom to enter".⁷ Bauböck argues that the prohibition from exiting a country is a clear denial of the freedom of movement, whereas the denial of entry "does not curtail freedom in the same way as long as there remain alternative destinations that are not closed".⁸ But for other thinkers, the right to emigrate is effectively useless if there is no country to which one can migrate. Pécoud and Guchteneire, for example, contend that "emigration and immigration inextricably complement each other and the Universal Declaration of Human Rights has somehow stopped halfway in its recognition of a right to move."⁹

In the face of extreme global inequality,¹⁰ these restrictions on mobility protect the birthright privileges of those born into wealthier countries, while trapping people born into poor families in poor countries to a life of deprivation.¹¹ Citizens of developed countries and highly skilled

professionals often have the option of emigrating if they so choose. This, however, is not the case for the vast majority of people in the world, due to visa restrictions, which provide citizens of wealthier and more democratic countries with more freedom of movement across international borders. For example, citizens of Belgium, Germany, Sweden, and the United States enjoy the right to travel to 155 countries without a visa; Sudanese, in contrast, can only enter 26 countries without a visa, Pakistanis, 25, and Afghans, 22).¹² The freedom of movement is therefore stratified at various levels so that countries as well as individuals are positioned differentially with regard to mobility.

A consideration of the ethical bases of these restrictions must take into account two key areas of sociological evidence: 1) Receiving countries often have created the conditions that induce emigration from migrant-sending countries and 2) Restrictive immigration policies frequently have “unintended consequences” in human rights violations.¹³ Because of receiving countries’ role in creating migration flows in the first place and the human rights consequences of immigration policies to restrict such flows, we argue that the right to mobility must entail both the right to leave and the right to enter. We provide sociological evidence in support of our contentions. Other scholars¹⁴ have argued for the right to mobility. Our analyses differ insofar as we show how sociological evidence can be deployed effectively to make these claims.

A Sociological Take on the Right to Mobility

Sociology, particularly in the United States, has shied away from human rights, in large part because of the normative slant of the tradition. However, US scholars such as Judith Blau have insisted that a human rights framework can push sociologists to use their empirical skills to do more than simply describe global inequalities: we can use human rights doctrine as a moral compass to evaluate social processes and conditions.¹⁵ In the United Kingdom, several scholars have highlighted the utility of sociological tools to explore and assess the legal and moral frameworks of human rights as well as their implementation.¹⁶ We draw from both of these traditions as we consider the extent to which international migrants are able to have their rights realized. We also engage the human rights scholarship put forth by Malcolm Waters and Anthony Woodiwiss, who urge scholars to consider the socially constructed nature of human rights, by questioning why human rights doctrine allows for the right to emigrate but not to immigrate.¹⁷

A few scholars have begun to develop the nascent subfield of international migration and human rights by creating new ways to navigate between the empirical pull of sociology and the normative and philosophical pull of the human rights tradition.¹⁸ For example, Joseph Nevins argues that, in a globalizing world rampant with economic inequality, the human rights to free choice of employment and to an adequate standard of living enshrined in the UDHR are difficult to achieve without the ability to leave one's country of origin.¹⁹ Reflecting on the importance of a normative discussion of "open borders," Aristide Zolberg reminds us of the ethical tensions between

immigration policies and the moral obligations of the global community.²⁰

And Delgado Wise, Márquez Covarrubias and Puentes contend: “Migrants and their families are social, rights-bearing subjects and their rights must be defended in origin, transit, and destination countries. A minimum set of rights includes: right to development, free mobility, decent work, and the choice to not migrate”.²¹

An analysis of the human rights of international migrants provides an ideal opportunity to explore some of the crucial issues posed by a human rights framework. As Anthony Woodiwiss points out, enforceability of human rights documents poses a major problem because, even though human rights discourse portends to transcend national borders, enforcement regimes operate nearly exclusively at the national level.²² International migrants, however, often have rights claims that transcend national borders, and are positioned to oblige states to engage with one another. Indeed, through the control of borders and enforcement practices, receiving states interact with immigrants and in these spaces receiving states assume special obligations to the immigrants.²³

In this section, we suggest a variety of ways that sociologists can contribute to the debate over the right to mobility through an analysis of the role of states in creating and managing migration flows, and the human rights implications of these actions and policies. By doing so, we render it evident that the utility of discourses over the right to mobility lies in the

practical implications of this right for those most affected by the existence, strength, and reification of national borders.

States' responsibilities in creating international migration flows

International migration is prevalent today in large part due to present-day and historical flows of capital, people, and military influence.²⁴ A discussion of the right to mobility needs to recognize a paradox in large-scale migration flows today: receiving states have played a fundamental role in creating specific population movements and at the same time have crafted responses that prevent the entry of those migrants. This tension has been amply identified empirically in sociological research.²⁵ Although sending states share a responsibility in creating such movements, we turn to a discussion of the paradox created by receiving states. A focus on the receiving states brings attention to contradictions between policies that exclude and those based on moral obligations that seek to include, an issue that needs attention in order to move a discussion of a right to mobility in line with a human rights discourse.²⁶

States have played an important role in creating migration flows, and thus have a responsibility to manage these flows. States' roles in creating migration flows can be formal and direct, such as when states grant passports to their citizens to leave, and visas to non-citizens so that they might enter. But these actions can also be indirect, but equally powerful, as when state actions sow the seeds for contemporary migration flows. For example, the largest migration flows from poorer to wealthier nations today

have roots in the wealthier and more powerful states' previous contact and interference in the migrant-sending states; these flows are therefore directed to the centers of power of their respective areas of influence.²⁷

Indeed, the migration flows from the English-speaking Caribbean countries to Britain, from the Maghreb to France, from the Philippines to the United States, or from Suriname to the Netherlands are not mere coincidences. Histories of colonization, economic, political, and historical ties, and contemporary international relations and foreign policy go a long way in explaining migratory patterns around the world today.²⁸ Taking the case of the U.S.-bound migratory flows as one in a global trend, the vast majority originate in only a few countries, and, contrary to what one might think, those countries that send the most migrants to the United States are not the poorest. For instance, of the more than one million immigrants who became US legal permanent residents in 2009, only 6,718 of them hailed from the five poorest countries in the world. Moreover, the vast majority of migrants to the United States come from a handful of countries: those with close ties to the United States. In 2006, for example, 43% of all legal permanent residents and 64% of all undocumented migrants came from Mexico, China, India, the Philippines, and Vietnam – all countries that have longstanding, close military, political, and economic ties to the United States.²⁹

Direct military intervention and colonial conquest have been key factors in triggering migratory flows. For instance, Indian, Pakistani and Bangladeshi migratory flows to Britain can be explained in the context of

British colonial rule in that region of the world. Vietnamese migration to the United States is another case in point: the Vietnam War (1963-1975) marks the beginning of large-scale Vietnamese migration to the United States. Vietnamese refugees began to arrive in large numbers in the United States after the fall of the U.S.-backed Saigon government in 1975, when the US government sponsored the evacuation of over one hundred thousand Vietnamese refugees.³⁰ Had the US government not intervened militarily in Vietnam in the 1970s, it is unlikely there would be over one million Vietnamese in the country today. Prior to this military intervention, there were almost no Vietnamese in the United States; by 1980, there were a quarter of a million.³¹ With the end of the Cold War and other changes in international relations, the United States has shifted its position with respect to potential Vietnamese immigrants. The presence of 160,000 undocumented Vietnamese migrants in the United States in 2006 exemplifies what happens when a door that was previously open is shut and a receiving country no longer provides legal options for entry.

Wealthier states can also trigger migratory flows from poorer countries through economic intervention, such as foreign investment, which creates cycles of capital and labor mobility, or through direct incentives, as in the case of Mexican labor migration to the United States over the past century or Turkish migration to Germany in the 1960s and 1970s.³² The case of Turkish migration is particularly instructive here. With the recovery and boom of the German economy in the 1960s, there was a need for semi-skilled and

unskilled labor. The then Federal Republic of Germany (FRG) signed bilateral agreements with the governments of Italy, Greece, Spain, and Turkey, for the importation of workers. Turkish workers were supposed to only stay for two-year periods, but with pressure from German industry, this clause was dropped and Turkish immigrants delayed their return to Turkey. Even though the FRG stopped the recruitment of workers in the mid-1970s when its “economic miracle” ended, few Turks went back and there are approximately 2.5 million individuals of Turkish origin living in Germany today, the largest population of foreigners in Germany. Although they are free to move back to Turkey, many of these individuals have now spent most of their lives in Germany, have children and families there, and would be strangers in Turkey. Although Germany’s immigration laws were revamped with a series of new laws beginning in 1993 that extend more rights to non-Germans, Turks still do not enjoy full participation in German society.³³ Germany’s contradictory approach to tolerate dual citizenship while in practice opposing this right discourages naturalization, a situation further complicated because this right is not extended equally across all groups.³⁴

Receiving Countries’ Immigration Policies and Human Rights

A central feature of the right to mobility as a human right is that migrants’ experiences are not solely contingent on their presence in a new country, but also on how they are received in the destination country and what civil, political, cultural, social, and economic rights they are granted. In this regard, it is useful to focus on one aspect of this reception and its effects:

how immigration policy has affected migrants' human rights. These effects can be discerned in a wide range of contemporary trends, from sojourners becoming settlers because of restrictive immigration controls, to indefinite and lengthy family separations resulting from such policies, to the progressive abrogation of rights of immigrants that curtail their livelihoods and block access to goods and benefits.³⁵ Indeed, a right to mobility does not concern only the individual because it involves families, communities, and entire countries.

Thus, one must keep in mind that immigration policies enacted in wealthier and more powerful countries do not remain contained within those territorial demarcations; they also have an effect on human rights beyond their national borders. The national policies enacted to limit the number of immigrants entering a European country or the United States, for instance, have profound and far-reaching effects on sending communities.³⁶ For example, border enforcement policies that make it more difficult to enter make those journeys increasingly more costly, physically and financially, thus transferring the added costs and burden to the sending communities. The family members who stay behind (usually non-migrant women) must deal with negotiating the debts incurred in order to make the journey.³⁷ Immigration policies that undermine family reunification and keep immigrants away from their families for longer and more uncertain periods of time, as in the case of the United States and various European countries, affect negatively the lives of non-migrant children.³⁸ Migration-induced

transformations in the sending communities often carry negative consequences for others who stay, as in the case of the wives of the Armenian men migrating to Russia and Guatemalan men migrating to the United States.³⁹ In both cases there was an increased surveillance of women when their husbands were away and a move to a more strict enforcement of patriarchal norms that maintained highly unequal gender hierarchies. Immigration policies that engender spousal separation thus have important consequences for the rights of women left behind.

Border Enforcement and Human Rights

Violations of human rights in migrants' journeys are among the most severe, visible, and frequent rights violations, as large numbers of migrants are denied formal entry visas and thus must undertake trips by land or water, under increasingly more dangerous conditions. Stories of these treacherous journeys abound in media accounts today. We learn of the harrowing journeys of young Senegalese men taking rickety boats across the Gibraltar Strait to enter Europe through Spain; of Chinese migrants undertaking similar voyages to reach the United States, and of Central American women and men crossing Mexico en route to the United States on "The Beast," or the "Train of Death," as the cargo train on which they cling to hitch a ride is aptly named.⁴⁰ Indeed, one of the most treacherous journeys today is that of transmigrants traveling through Mexico, where they can be tortured, violated, and extorted by criminal bands as well as law enforcement agents. According to the National Human Rights Commission of Mexico, there are an

average of 1,600 kidnappings a day of migrants who are in transit in Mexico today, and approximately one in ten of the 140,000 who cross Mexico annually perish during the journey. This journey is particularly dangerous for women and girls. According to Amnesty International, six out of ten Central American women and girls are victims of sexual violence during their journey through Mexico.⁴¹ This journey and the human rights violations it entails are a direct consequence of restrictive migration policies in the United States and the militarization of its southern border, as heightened border surveillance has created conditions for more lucrative smuggling operations that increasingly resemble human trafficking rings.⁴²

What all the above cases have in common is that migrants' journeys have increased in danger in direct relation to the stiffening of immigration policies in the countries the migrants attempt to enter, and that during these journeys migrants are exposed to severe human rights violations.⁴³ During journeys over rough terrain, rivers, and oceans, migrants lose limbs, are extorted, unprotected, victimized, robbed, and sexually assaulted.⁴⁴ Poorer migrants, even those who originate in middle-income nations, often must travel without an entry visa because they do not have the means to meet the requirements of a formal visa; requirements that are highly class based. Thus, it is the poorer migrants who are more exposed to the risks of a journey by land and the ones who undertake the most dangerous trips.⁴⁵ The rights violations these migrants suffer during the journey make visible the effects on migrants when the right to enter their desired country of

destination is undermined (e.g., the lack of an entry visa that would allow them to immigrate safely). Immigration policies today then, far from upholding a right to mobility, close the few open doors to the right to immigrate. And even though human rights organizations exist to protect the migrants, in some regions more developed and active than in others, their work does not begin to address the need.

Family Reunification Policies and Human Rights

On the receiving end, immigration policies have profound effects on the rights of migrant workers and their families, including blocked access to social services, to housing rights, to education and health, to the right to work and earn dignified wages to meet basic needs of food and shelter, and to other benefits.⁴⁶ Even though a feature of migration has long been the separation of migrants from their families during the time they work abroad, migration-related family separation today is qualitatively different and is related to curtailed rights to mobility. Today we see the separation of families in which an individual migrates alone and leaves family behind as in the past, but the indefinite and uncertain periods of separation are related to current policies that make it nearly impossible to reunite in the receiving countries.⁴⁷ These policies also make it impossible for migrants to visit their families in the sending countries regularly because of the risky journeys that migration by land entails today. We see instances of this situation among Latin American-origin immigrants in the United States,⁴⁸ as well as among African immigrants in Italy and Spain.⁴⁹

The separation of migrant mothers from their children brings to the fore the impediments to mobility linked to the tightening of immigration laws in receiving countries. These mothers separate from their children for lengthy periods of time because they either do not have legal documentation and have to stay put to be able to generate incomes to send remittances back home, or because family reunification laws make it practically impossible for them to bring their children to live with them in the country of destination. This situation is prevalent among Filipina domestic workers in France;⁵⁰ Ecuadorian and Ukrainian migrant women in Spain;⁵¹ Nepali migrants in Japan;⁵² Latina migrant women in Israel;⁵³ (and Central American women in the United States.⁵⁴ In effect, international migration presents a conundrum: people migrate to have their rights met, yet the immigration policies that govern their migration deny them other rights. One way this conflict of rights could be resolved would be to craft a right to mobility in tandem with other rights such as the right to family reunification and to an adequate standard of living.

Deportations and Human Rights

Among receiving countries' most extreme responses to contemporary migratory flows are deportations, which can be considered an ultimate form of exclusion and as such the other side of the coin of right to mobility. Undocumented migrants, people convicted of crimes, and those denied asylum are frequently deported in Austria, France, Germany, the Netherlands and the UK.⁵⁵ In the United States, the elimination of many grounds for

appealing deportation orders means that it has become increasingly common to deport migrants who have spent most of their lives in the United States, as well as those with US citizen relatives. These individuals are active members of their communities, working, praying and playing alongside US citizens, who are suddenly removed from their worlds and transported to countries they barely remember. Indeed, a recent study notes that two-thirds of the undocumented immigrants in the United States today have been in the country for more than 10 years, with one third having resided in the country for 15 years or longer.⁵⁶ A recent report revealed that the United States deported 46,486 parents of US citizen children in the first six months of 2011 – meaning that likely 100,000 parents of US citizens were deported in 2011 alone.⁵⁷ Thus, deportations do not simply remove individuals who purportedly have broken the law by entering or remaining in the United States after their visas have expired; deportations remove active, rooted members of families and communities. Not only do the family members in the United States suffer the separations, but often relatives in the sending countries, who have been counting on the remittances they receive, are affected as well. In this way, the act of removing a person from her habitual place of residence has far reaching consequences that affect individuals and communities the world over.

The United States deports, on average, over one thousand people each day. In 2011, the US Department of Homeland Security (DHS) deported a record high of 396,906 people⁵⁸—ten times as many as in 1991, more than

during the entire decade of the 1980s,⁵⁹ yet just short of their quota⁶⁰ of 400,000 removals per year. Nearly all of these deportees are Latin American or Caribbean nationals.⁶¹ One of the most pernicious examples is the deportation of long-time residents of the United States to Haiti. On January 12, 2010, Haiti suffered a devastating earthquake. Because of the devastation, the break-down of government, and the destruction of the prison in Port au Prince where deportees were held, the United States suspended deportations to Haiti. However, just one year later, in January 2011, the US government resumed deportations, and 27 men were deported to Haiti, where Haitian officials illegally detained them in cells full of feces, vomit and blood. Wildrick Guerrier, a 34-year old deportee, died of cholera-like symptoms two weeks after arriving in Haiti. Guerrier had been a legal permanent resident of the United States for nearly twenty years, and was ordered deported after serving 18-months in prison for possessing a firearm.⁶² Despite the continuing cholera epidemic, the illegal detention of arriving deportees in dangerous conditions, and the lack of health care and infrastructure in Haiti, in 2011, the United States deported 250 Haitian citizens.⁶³ The Inter-American Commission on Human Rights has urged the United States to resume its moratorium on such deportations because of life-threatening conditions in Haiti.⁶⁴ The United States has ignored these pleas.

The contradictions inherent in the assumption that the freedom to leave the country of citizenship takes precedence over the freedom to enter and remain in a host country are made evident in the deportation of citizens

of countries to which they have no ties: sometimes the host country is the only country a person has ever known. Natalia, for example, is a citizen of Haiti because her mother is Haitian. Natalia, however, has never stepped foot in Haiti. She was born in the Bahamas and moved to the United States when she was two days old. The United States became her adopted home. Yet, as a Haitian citizen, she faced deportation to Haiti after violating the terms of her visa in the United States. When Natalia was twenty years old, she was caught shoplifting. Her attorney advised her to plead guilty to get a lesser sentence, and she did. However, her conviction rendered her deportable, to Haiti, even though the United States is the only country Natalia has ever known; her mother, child, and siblings live in the United States; she has no relatives in Haiti; and she does not speak Haitian Creole.⁶⁵ Natalia's deportation to Haiti is one of many examples of the egregious human rights violations created by US deportation policies. The implications of these human rights violations become more serious when we also take into consideration the long and ongoing history of US military and economic incursions into Haiti.

Examples of the ways in which immigration policies violate the right to form a family, to an adequate standard of living, to cultural expression, and to a host of other rights abound. These policies, which aim to restrict movement and enforce national sovereignty in an era of increased travel and trade of goods across borders, create a plethora of human rights violations. In the interest of space, we limit ourselves to the examples above. In the

next section, we consider how this sociological evidence on the causes and consequences of international migration can contribute to this debate by delineating the right to mobility.

What a Right to Mobility Might Look Like

The sociological evidence set forth above points to the need for a right to mobility, given the current state of the globalized economy with its strong push toward integration and the flexible movement of goods and capital.⁶⁶

As sociologists who study international migration, we can provide abundant evidence that 1) state policies and actions create migration flows; 2) migrants travel most frequently to fulfill their human rights to freedom from persecution, to an adequate standard of living, and to be with their families; and 3) current restrictions on immigration flows on the part of major immigrant receiving countries curtail migrants' human rights. Policies in major receiving countries that prevent the majority of people from immigrating often result in rights violations. The right to mobility, then, is a fundamental human right and must be incorporated into human rights doctrine.

There will always be an interplay between the right to mobility and the right to other rights, and these human rights must be weighed accordingly. For example, the economic crisis affecting sending countries like Mexico and those in Central America, together with US border policies that have contributed to the immobility of previously circular migrants so that they stay put and do not leave the country,⁶⁷ have given rise to migratory flows

to new US destination areas, particularly to the South and the Midwest. These areas were not prepared socially, institutionally, or culturally to receive this new influx, as immigrants have moved in for jobs but they come with families and children and thus there is now increased demand for services in schools, hospitals, and the like.⁶⁸ These flows must be managed from a human rights standpoint because of the human rights concerns both of new arrivals as well as of the people in receiving communities. The sudden influx of Latino children into small towns in the South, for example, may infringe on the right to education of those already present in this town. From a human rights standpoint, however, the right to education of the residents of this town does not necessarily take precedence over the rights of arriving migrants. Both the residents and the arriving migrants have valid human rights claims and should be weighed accordingly.

The consideration of a right to mobility, then, must be thought of as one of many human rights, all of which operate in conjunction with one another. The Vienna Declaration of 1993 states: “[a]ll human rights are universal, indivisible and interdependent and interrelated.” The right to mobility is no different, especially insofar as it operates in functional interdependence with other rights. People require the right to mobility when they are unable to have basic rights met within their country of origin. In the current context of global capitalism, the absence of the right to enter a country for many people means the absence of the right to be with their families, to be free from persecution, and to have an adequate standard of

living. Significantly, the lack of the legal right to mobility does not prevent large numbers of people from migrating. Migrating illegally, however, brings about a host of other rights violations, especially related to the right to personal security. The right to mobility—not just to exit but also to enter—is a serious omission in human rights doctrine because its denial leads to other human rights violations.

To clarify what a right to mobility would look like, we distinguish between the absence of borders, open borders, and the right to mobility – three distinct concepts. Open borders are not the same as the absence of borders. State borders function both to demarcate political jurisdiction and to control flows of goods and people; thus, one can eliminate controls over migration flows without ending centralized control over the polity.⁶⁹ The adoption of a right to mobility, however, does not require open borders. Instead, the recognition of the human right to mobility would entail the right exit a country and enter another one, a human right that would be balanced along with other human rights claims. In addition, the burden of proof would fall upon states to establish when and why they choose to deny people this particular right in order to ensure other rights. The right to mobility changes the grounds for debate. Instead of citing the protection of national security and private property to deny non-citizens entry, states that uphold the right to mobility would have to cite the realization of other human rights.

Consideration of how the right to mobility might look in practice raises other questions. Does the right to mobility imply that all people deserve the

economic capital requisite for international travel? Or, does it mean that the burden of proof shifts to the states? Can we imagine human rights doctrines saying: “States shall, except when compelling reasons of national security otherwise require, allow non-citizens to enter their territories”? The right to mobility is under-theorized and under-developed both in sociology and in human rights scholarship more generally, and we have pointed to the sociological evidence that could open the door to research that focuses on these interrelations.⁷⁰

Conclusion

What can sociology contribute to a discussion of the right to mobility? Two points stand out. The first is empirical groundwork that can provide the bases for ethical and moral debates about who has rights and when, who is included and how, and whose rights take priority and why. Sociology’s emphasis on keen observation, analysis, in discerning of patterns of behavior, and on critical thinking makes this approach particularly suited for shedding light on issues such as human rights and particularly the right to mobility. And second, sociologists’ skill for unveiling multiple inequalities, whether micro or macro, on the local or global scale, and for linking micro stories to larger processes, positions them favorably to contribute an understanding of why movements across borders take place, how links across borders facilitate movements, and how profound inequalities between and within countries—at the sending and receiving ends—shape these

movements and ultimately debates about the rights of migrants (and non-migrants alike).

A perspective that underscores inequalities and power imbalances on a global scale can help to correct perceptions of migration as benefiting only the sending countries (and the migrants themselves) which tend to hide the costs of migration to sending societies⁷¹ as well as the benefits of immigration to the receiving societies, and could help to shift to an understanding that is more balanced and complex, and thus closer to what global migration relations are like. Perspectives that underscore the benefits for sending countries tilt the discussion so that receiving countries are seen as subsidizing poorer ones through migration and remittances, a stance that often fuels negative public opinion in receiving countries with detrimental consequences for migrants. As well, perspectives that treat migratory flows as independent of foreign policy actions of the receiving state in sending countries, absolve these states of the responsibility toward these migrants. Such arguments veil the causes and consequences of political and economic imbalances that need to be acknowledged when delineating a right to mobility.

A sociological approach can provide the tools not only to describe trends, but also to understand them and to inform publics and human rights organizations about root causes and to explain patterns of movement to enhance our understanding of the links between rights and migratory movements. Thus, a sociologically-informed perspective can contribute to

reframing the discussion and the agenda by introducing evidence gathered through various methodological tools. It can be particularly beneficial in receiving countries that maintain an exclusivist and reductionist approach to migration, where migration is framed as a “problem” or, more commonly these days, as a threat. A framework that identifies unequal exchanges and power imbalances at both ends allows for linking the right to mobility (as well as the right to not move) to discussions about rights more generally.

There have been calls to bring a human rights dimension to the migration discourse,⁷² yet this cannot be a one way project as the need to base human rights discussions on evidence gathered from migration research seems equally urgent. In this paper we have used sociological evidence to exemplify the kind of information that can serve to inform discussions about rights and the critical role that sociological research can make to this discussion. This is a fruitful avenue of research for sociologists for the reasons we have pointed to and as alternative ways of thinking about the migration-rights nexus emerge, sociologists have a particularly useful set of analytical tools to guide the discourse.

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