Introductory text: Public policies and international migration in Brazil

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Dimensions of international migration policies in today's world¹.

This paper is based on recent contextualized migrations, macrostructural processes of productive restructuring within the international context of the current globalization stage, including multiple dimensions and developments. The ever growing importance of international migrations in the globalization context has been subject to numerous theoretical and empirical contributions which show their diversity, meanings and implications. An important part of these contributions leads us to reflect on major economic, social, political, demographic and cultural transformations that are currently taking place internationally, especially after 1980.

This debate bears witness to ideological opinions and worldviews, which are confronted with an attempt to identify contradictions and the hegemonic capitalist crisis in the current development stage that at the end of the Cold War and the expansion of the flexibility stage of capital accumulation, aligned developed and developing countries by testing the possibilities of those that do not belong to the banquet of the rich, industrialized, developed; unlike the poor ones that are always part of a complex development that can hardly be consum-

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mated, their dynamics caused new poverty and exclusion areas, new internal little “oasis” of economic dynamism and new limits for the exercise of welfare state and social protection policies.

Thus, when studying this topic, it is essential to consider the struggle context and international commitments taken on to expand and enforce Human Rights of migrants; it is also necessary to discuss which social groups are included in official policies, protected by Human Rights. It is essential to acknowledge, in this context, that international migration movements represent a contradiction between the interests of dominant globalization groups and national States and the traditional optics of their sovereignty; tensions between international, national and local levels of action have to be taken into account. We have to consider that international migratory movements are the counterpart of the global territorial restructuring, intrinsically related to the economic-productive restructuring at a global scale.

In this context, Human Rights became a legitimate instrument and the acceptance of the internal and international harmonization. Migration policies are developed and executed as of this legitimization; this road is far from being taken; there is still much to do, like vanquish the gaps created by international migration governance proposals. Proposals made by international bodies, even in institutional formulation of legal measures to guarantee migrants’ Human Rights through associations, bi or trilateral and multilateral agreements and on the other hand, the framework of regional integration agreements causes an important gap when monitoring migratory policies; thus, the role of social movements and other voices of organized civil society.

In the context of MERCOSUR current free movement of persons agreements, signed by member countries and their associates, can cause deep alterations in international and intraregional migration; these deserve more profound studies to answer some questions, such as: what part of the social pyramid will carry out movements among countries with diverse economic dynamics, repeating in the intra-regional area the brain-gain situations observed in the South-North migration relationships (Diniz-Fernandes, 2009).

**Human Rights Perspective: contradictions and tensions**

The Universal Declaration of Human Rights includes migrant rights: this declaration guarantees individuals –in article 15– the right to have rights; that is, the right to have a nationality, of not losing it and the right to change nationality. Article 14 guarantees the right to ask
for asylum when persecuted; article 13, in its second paragraph guarantees the right to leave, the right to leave one’s country of origin and come back when one sees fit.

Nonetheless, the Declaration has no legal binding force. That is, it does not have any mechanisms to force States to follow its determinations. It is important because it promoted and still promotes the creation of conventions, treaties and government and non-government organizations that deal with Human Rights.

This document also states that the State still holds the right to decide who can enter and reside in its territory. Article 13, paragraph 1, makes it clear that freedom of movement and residence is limited to “within the borders of each State”. There is no “right to enter” that can be compared to the right to leave. Article 14 guarantees individuals that are “persecution victims [...] the right to seek and enjoy asylum in other countries”, but no country is forced to accept refugees.

The Declaration of Human Rights, in its most traditional interpretation, is used solely to regulate the relationship between the State and its citizens. However, the growing recognition of the individual in international areas and with the growing number of immigrants in the world, it is more frequently used as a parameter to regulate relationships between immigrants and host countries.

The first international organism that developed a specific legislation regarding migration was the International Labor Organization (ILO). In 1949, ILO developed the “Migrant Workers Convention” (No. 97) and after 1975 the “Migrant Workers Convention (supplementary provisions)” (No. 143). Both conventions recommended States to make an effort, regarding the dissemination of information of the immigration process, and intended to guarantee immigrants’ right to be treated equally and have the same rights than national workers; regardless of their nationality, race, religion or sex. The second Convention, unlike the First one, included articles related to irregular migration, human trafficking and paragraphs related to cultural rights.

Cultural rights are one of the most polemic points of the new immigrants and minorities rights’ conventions in international and domestic areas. The simplest definition of cultural rights states that they are those which make “the integration of migrant workers and their families to the social environment of host countries, without the loss of their cultural identity” easier (UN, 1990: 6). Those rights usually entail policies that promote the preservation of language, religion
and other cultural elements of the groups of immigrants. Since the sixties, the strengthening of the multiculturalization ideology, the concern for cultural rights, of immigrants and other autochthonous minorities, also grew. The discussion of cultural rights is more and more frequent in international and domestic debates, because they fight against controversial aspects such as national culture and the right to diversity, among others.

Both ILO conventions have had a low ratification rate, especially the second one (47 countries, the first one, and 23 countries, the second one). Both conventions lacked the participation of countries with the greatest flow of immigrants: Australia, the United States and France.

In 1985, the Economic and Social Council of the UN signed a declaration that recognizes the need to have greater international regulation on this topic. In 1990, after long negotiation periods, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (12/18/1990) was signed in the General Assembly of the organization. In 1993, the Convention had the minimum number of ratifications to come into effect. However, important countries involved in contemporary migration flows did not sign said Convention.

The Convention demands that regular migrants be treated at work in the same manner than national ones, that they be informed of their rights in a language they understand, that they have the right to seek justice in case of deportation and it also establishes rules to recruit foreigners. One of the most controversial points is the one that demands the respect for immigrant workers’ rights, regardless of their immigration status. Other important issues, such as family migration were not discussed due to the lack of consensus.

The ever growing importance of international migration on the global scene can be measured through the proliferation of reunions and organizations that consider migration as their main topic of discussion (Global Commission on International Migration – established by the Secretary General of the UN in 2003; High-level Dialogue on International Migration and Development United Nations, 2006; Ibero-American Summit, 2006; Global Forum of Migration and Development, since 2007 it takes place annually, among others), and also because of its important role in bigger conferences, such as the ones related to population, work and fight against racism (World Conference on Human Rights, part 2, paragraphs 33-35; International Conference on Population and Development, chapter 10; World Summit for So-
cial Development, chapters 3 and 4 and the Fourth international conference on women, chapter IV).

It is important to note that the relationship between Human Rights and Migration also entails the right not to migrate; that is, the individual must have the necessary conditions to improve their livelihoods and build their lives in their native countries. Thus, we reassert the inevitable connection between migration and decisions that entail other aspects of economic and political life in societies. Although the Human Rights perspective is essential to help us build parameters, it does not eliminate the necessity to define the goals of migration policies. This definition, in turn, cannot be done without thinking about migrations in a wider context.

**Context of Latin American countries and Brazil**

Historically, in regards to international migrations Latin American countries have gone through three stages:

1. Up until 1950, these countries (mainly Argentina, Brazil, Uruguay and Chile) received immigrants from the old continent (mainly Italians, Portuguese, Spanish and in Brazil’s case Japanese).

2. Since 1960 people started to migrate to developed countries, especially the United States, Canada, Spain and some other European countries.

3. Throughout time and with different dimensions, those countries have had intraregional migration movements; Argentina, Costa Rica, Venezuela and Chile were the main countries that received immigrants.

After the economic crisis of 2008, flows to the exterior decreased, although this displacement trend still exists (mainly from Mexico and other Central American countries and from the Caribbean); the return of Latin Americans to their country also decreased, even where governments promote return through specific policies.

In this context, Brazil follows regional trends and stages with certain specificities: its territorial extension, being a slave society until 1888; strong Japanese immigration since the late 19th century and very clear disparities among the country’s regions.
This study includes, firstly, a historical retrospective of international migration movements, a quick glance at internal population movements, the beginning and dynamics of the displacement of Brazilians to other countries and the current context, with diverse emerging emigration movements, but basically immigration movements.

This context is supported by the national perspective on the strengthening of democracy, political stability, and significant economic development with the reduction of poverty, rise of middle class, high investment rates, etc. This has projected the country into international forums and promotes migration attraction which has increased, especially in Latin American countries, as well as some African countries.

Secondly, the institutional legal body that circumscribes programs and actions regarding international migrations and supports official proposals regarding migration policies is described.

Lastly, the third part tries to reconstruct the predominant vision of civil society, generally and particularly of the main agents that are involved. The goal is to clarify immigrants’ situation, which is mainly irregular, and whose daily life includes the cruelty of precarious situations, accumulated deficiencies, their search to access decent livelihoods, their discrimination and xenophobia experiences, their struggle to put their documents in order to get jobs, among other situations. Actions, programs, supports and commitments of civil society agents are the basis of the overview which aims to build and ultimately support the proposals.

After writing this introduction, with excitement, let us remember Father Alfredo’s words:

“We should not have to put an end to it. It can stay in name of resistance and stubbornness, of hope and dreams that immigrants give life to. Many of them are orphans of war, conflict and other kinds of violence; others are poverty, misery and hunger orphans; and other ones work the land, the air and the waters. Migrants, refugees, deported, exiled, sailors, travelers, gypsies, “natural disaster” fugitives, temporary workers… they are above all strong, paraphrasing Euclides da Cunha, strong because they transformed flight into a new quest. P. Alfredo J. Gonçalvez, Migrações em Pauta, 2010.