Chapter 23
Beyond the Borders. Migration Policies, Justice and Citizenship from a Global Perspective

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Abstract The universalistic logic of justice and human rights clashes with the particularistic logic of national sovereignty. This contraposition is thrown into sharp relief in the analysis of migration politics. This article provides an argumentation in favor of a flexibilization of the access to citizenship and of the conditions for border crossings as an appropriate institutional framework for the recognition of human rights and the implementation of distributive justice on a global scale. This thesis is developed in four stages by: offering some reasons for overcoming the state-centered focus of the Rawlsian theory of justice (1); describing poverty and the migrations that derive from it as a question of justice (2); analyzing the obstacles that state boundaries present at the moment of implementing a global conception of justice (3); and, finally, arguing in favor of a redefinition of the notion of citizenship that constitutes the normative horizon of migration policy (4).

The public policies that are intended to manage the complex phenomenon of immigration resonate profoundly in the affected societies. They also call into question the foundations of the conception of justice professed by these societies. Justice, as a distinctive feature of the basic institutions of a society, demands a juridico-political scenario in which all individuals are equal before the law and subjected to the same general criteria. Such a demand of justice—of which only minimum criteria have been explained here—has also to serve as an orientation, both in the moment of defining public policies of immigration and during their implementation. Such policies make it possible to proceed towards a progressive equalization of the rights of all residents, regardless of nationality. In certain circumstances, they would also allow for a distribution of resources, goods and

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services to recent immigrants. It is not surprising, however, that in societies that receive immigrants—rich and even opulent societies, at least in relative terms—there are movements of resistance on the part of sectors who feel that their own welfare is threatened. In such cases, special efforts have to be made to explain the sense of these measures in order to avoid a complete revision of the already accepted criteria of justice to the disadvantage of the immigrants. If citizens are not prepared to make certain efforts in favor of an equitable redistribution of resources and positions of power, we risk the emergence of a dual society with two clearly differentiated categories of individuals: citizens and immigrants. This would imply an unacceptable social fracture, as it would destroy any possibility of a scenario that would allow for the realization of justice.

The more or less permanent presence of immigrants and refugees poses, in all its crudity, the ethical question of the limits of the political community and, in particular, of the legitimacy of those limits based on the nationality of individuals. The real situation in which immigrants live clearly shows that the implementation of human rights has traditionally been conceived by taking into account the frame of reference of sovereign states. Therefore, immigrants, getting settled in their new countries, often experience significant differences in the level of the effective enjoyment of rights relative to the rights of the nationals. The persistence of these experiences is extremely disquieting because the respect for human rights defines the minimum standard of justice that nowadays enjoys a very broad (although not universal) consensus. For this very reason, questions of migratory movements, and especially of the rights that have to be guaranteed to immigrants, are difficult to avoid in any serious discussion of global justice. Without disguising the relevance of this subject, the recognition of the human rights of all individuals in any part of the world is not, however, the only theme of justice related to the well being of immigrants. This approach to the problem will suffer from a certain narrowness, as there are other considerations that affect the dimension of global justice.

The choice to leave one's country is in most cases a forced choice. Due to a global distribution of wealth and resources that is neither homogeneous nor equitable, such a decision is frequently linked to a situation of scarcity of, or difficult access to, resources. Indeed, there is a close connection between migrations and the unjust distribution of wealth at a global level. It is not surprising, then, that increasing global poverty finds itself amongst the most urgent and unavoidable questions on the current international agenda. The theoretical positions concerning this are divided, although in one way or another they side with one of the following two basic options: global poverty is to be dealt with either as a question of humanitarian aid or as a question of strict distributive justice. Against the conscience appeasing position of John Rawls, who inclines towards the first option, there have emerged a series of critiques that decide on the second option in the name of the principles he proposed.

In this article, I will deal with the effects of migratory politics on the concepts of justice and citizenship in four stages: I will offer some reasons for overcoming the state-centered focus of the Rawlsian theory of justice (1); I will describe poverty and the resulting migrations as a question of justice (2); I will analyze the obstacles that

state boundaries present at the moment of implementing a global conception of justice (3); and, finally, I will argue in favor of a redefinition of the notion of citizenship that constitutes the normative horizon of migration policy (4).

23.1   Some Limitations of Rawls' Theory

The contemporary discussion of justice is defined by Rawls' work *A Theory of Justice* (1971), which delimits the conceptual field in which the principal philosophical debates about politics have subsequently been waged. The Rawlsian doctrine, however, despite its pretension to conform to the developed societies of modernity, does not succeed in breaking with the traditional moulds in one highly relevant respect: it does not question the idea that the limits of justice are the limits of the state, to the extent that it does not even consider justice as a distribution of wealth in the world as a whole (cf. Barry 1989: 4; Singer 1993: 253).

Until 1979, when Charles Beitz's *Political Theory and International Relations* appeared, the state-centered focus of justice was the only one that had really been articulated. In the following, a broad front of political philosophers and social theorists who, although referring to the principles of Rawlsian philosophy, clearly agree in the intention to apply his political thought in the international sphere (cf. Velasco 2010). Amongst the members of this liberal-egalitarian and cosmopolitan group can be found: e.g., Beitz, Barry, Shue, Pogge, Jones and Caney. The authentic challenge they confront consists in finding a way to leave behind the sphere of state societies and displace the focus of attention towards the basic structure of a 'more or less integrated global society' without losing on the way either conceptual rigor or normative exigency. Although in later works Rawls tried to deal with this challenge, above all in *The Law of Peoples* (Rawls 2001), in reality he only went halfway because, as Singer (2002: 9) claims, his approach anchors in "the idea that the unit for deciding what is just remain something likes today's nation-state. Rawls's model is that of an international order, not a global order." In contrast, the mentioned critics maintain, albeit with some refinements, that, from a liberal position attentive to an equitable distribution of rights and resources, that is, from a Rawlsian perspective that does not insist on the literalness of Rawls but traces back to the basic ideas of his theory: the principles of justice should have a global application in such a way that the available resources would be dealt with and managed on a world scale (cf. Fraser 2009; Nussbaum 2006). Although neither Beitz nor Pogge consider this point concretely, this would allow, as will be shown later, that matters like, for example, those concerning migratory flows can be considered from a much more integrated perspective.

Indeed, and in order to do justice also to Rawls, we have to distinguish between two Rawlsian proposals: on the one hand, a first theory in which the characteristics of a just society are delineated with some detail and, on the other hand, a much less articulated conception of the just relationships between peoples. One of the main disparities that can be perceived between these two proposals is that, whereas the first is directed towards achieving an agreement about the public criteria for the evaluation, design and reform of the institutional order of a society (its "basic structure"), the second only aspires to obtaining a set of norms of good conduct that cooperating peoples would have to follow. We have to talk then, as Pogge (2004) has clearly shown, about several 'structural asymmetries' that exist between these the two theories, despite the fact that "the Law of Peoples is developed within political liberalism and is an extension of a liberal conception of justice from a domestic regime to a Society of Peoples" (Rawls 2001: 9). Thus, the levels of normative requirements in one and the other differ ostensibly.

There is another notable asymmetry between the two conceptions that tarnishes the credibility of Rawls' international theory. Especially striking is the fact that normative individualism is assumed in the domestic sphere, yet totally rejected in the international sphere. This form of individualism is based on "the view that, in settling moral questions, only the interests of individual human beings should count" (Pogge 2004: 1744). Whilst in his domestic theory, he does not attach great importance to collective interests, in his international theory, "peoples are recognized as the ultimate units of moral concern" (Pogge 2004: 1744). While in a genuinely cosmopolitan perspective, the first concern would be "the well-being of individuals and not the justice of societies" (Rawls 2001: 119), what is relevant in *The Law of Peoples* is the stability of the system of states and not the redistribution of resources amongst all the inhabitants of the planet, an issue that is situated outside the theory's object.

There is no sufficient reason for affirming that the unjustified effects of inequality in the international social order have to be dealt with in a manner diametrically opposed to the domestic problems of justice. However, in *The Law of Peoples*, Rawls only formally contemplates the duty of international assistance, moreover, as the last one enumerated amongst the principles of justice for free and democratic peoples: "People have a duty to assist other peoples living under unfavorable conditions that prevent their having a just or decent political and social regime" (Rawls 2001: 37). It is understood that this duty has to be applied e.g., when poverty threatens the good internal ordering of a determinate society. No institutional arrangement of international reach is deduced from this duty and, ultimately, it remains subject to the free negotiation amongst sovereign states. It is precisely this lack of ambition that condemns the Rawlsian proposal to be completely irrelevant in a world that requires global normative standards.

Amongst the reasons that motivate Rawls not to extend the above-mentioned normative individualism to the international sphere, we can distinguish two of a very distinct tenor. The first reason is the conviction that the causes of national

poverty and international inequality are purely domestic.[1] This conviction is hard to sustain if we take into account the empirical facts and, above all, the increasing interconnection of the world economy. The second reason underlies Rawls' refusal to design a global institutional order. Rawls discards this possibility with an argument of authority: "Here I follow Kant's lead in *Perpetual Peace* (1795) in thinking that a world government—by which I mean a unified political regime with the legal powers normally exercised by central governments—would either be a global despotism or else would rule over a fragile empire torn by frequent civil strife" (Rawls 2001: 36). However, even accepting this objection, it is not at all clear why Rawls refuses to consider other possibilities, such as a world confederation with powers of coordination or different supranational organizations with a continental character (like the European Union), and, above all, why he continues to give priority to the framework of the state as the privileged sphere for the resolution of practical problems of justice. These reasons will be examined with some detail in the two following sections.

23.2   Global Poverty and Migrations

In one of the most controversial passages of *The Law of Peoples*, it is claimed that the lack of a minimum of welfare in certain societies is not fundamentally the result of a scarcity of natural resources, nor of non-equitable conditions of exchange and political domination, but that it is a problem generated by the cultural traditions and political habits (in particular, oppressive governments and corrupt elites) of certain peoples, as well as by their members lack of hard work, probity and ability (cf. Rawls 2001: 109–109). The causes of poverty are, in the end, endogenous to each country. The question of migration is treated in the same way, the different causes of its flows being reduced to one main cause: the absence of stable liberal-democratic institutions and structures in the sender countries (cf. Rawls 2001: 8, 38–39). Conceived in purely political and institutional terms, this cause can hardly be accepted as valid.[2] If, in contrast, it were conceived as the absence of a well-ordered social structure, that is, if the cause of the migrations were located in the unjust character of social relations, this would be to point in the right direction.

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[1] The point of departure for this claim, which (Pogge 2002: Chap. 5) qualifies as *explanatory nationalism*, is an insufficiently proven supposition: "The Law of Peoples assumes that every society has in its population a sufficient array of human capabilities [. . .] to realize just institutions" (Rawls 2001: 119).

[2] To question that global poverty results exclusively from endogenous causes does not mean to deny that these can come to have a specific weight. We could in this way argue, for example, that the non-enjoyment of rights of political participation impedes our being able to draw attention to determinate needs and our being able to reclaim adequate means (cf. Sen 2005).

The purely state-centric approach to justice, which proceeds as if states were Leibnizian monads that do not interact amongst themselves, could perhaps have been justified in other times for pragmatic reasons, for example, because of the difficulty of establishing permanent contacts and relations with far-away places. Today, however, such reasons can no longer be invoked, since "distance nowadays [is not] a bar to the ability to help—or harm" (Barry 1989: 5). In this respect, as with a number of other issues, the material conditions of existence have changed so much since the beginning of modernity that, as a consequence, the so-called *circumstances of justice* have also been modified, namely those conditions under which human cooperation is not only possible, but necessary (cf. Rawls 1971: § 22). As we can remember, David Hume (1999 [1751]: Chap. 3) already considered the moderate scarcity of goods and the lack of altruism as the two normal circumstances that compel human beings to talk about justice. Taking into account that placing expectations on human altruism is to a large extent a vain hope, it seems to be better to concentrate on the first condition. The central objective of justice is the distribution of goods of which there is a limited provision. Or, to put it differently, justice finds its natural place of application precisely where conflicts of interest arise as the result of a hard competition for scarce resources. When the recourses required to satisfy basic human needs are not infinite, the respect for the dignity of human beings appeals to social justice.

At least on a planetary scale, circumstances are now so extreme because in the last two centuries the processes of unequal economic development have opened up such enormous international disparities. There is even more of a reason, then, to attempt an authentic international redistribution of wealth according to an equitable global treatment (cf. Beitz 1979; Pogge 2002). This redistribution cannot confine itself to cosmetic changes, nor to rhetorical appeals: it must be effective at a structural level. This conviction stems from the premise that there exists a fundamental analogy between state societies and global society with regard to the problem of the distribution of wealth (cf. Dower 1991: 274).

A normative theory of justice cannot ignore the fact that the profound abyss that separates the richest states of the planet from the poorest is now wider than ever. The current processes of globalization are characterized, amongst other things, by their profound asymmetry and, in particular, by the increasing economic inequality that is generated between the different regions of the planet.[3] The persistence of rigidified situations of injustice can be found behind migratory movements on a world scale. Although there are flows that originate in situations of emergency (civil wars, natural disasters, etc.), the majority of migrations have a defined direction that goes from poor to rich areas and which, to a large extent, are the result of a situation of structural injustice, of a non-equitable distribution of wealth,

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[3] Amongst the multitude of facts, one of the most eloquent is perhaps this one: the 225 richest people on the planet dispose of the same resources as 47% of the poorest. Other equally alarming facts: 2.5 billion people live with less than 2 euros a day and every day 850 million people go hungry (*Human Development Report 2005*—PNUD).

natural resources and so-called human capital. In most cases, to talk about migrations as a voluntary exodus would be to offer a completely fallacious representation of reality because the margins of action and individual decision become enormously restricted in situations of scarcity and economic penury.

Migrations are a phenomenon of planetary dimensions which no state can efficiently control or channel, because their causes can be found just as much in sender countries as in receiving countries, in such a way that it is meaningless to treat them as if they were a question of mere interior politics (cf. Castles and Miller 2009: 12–14). There are powerful reasons that incite people to leave their own country (*push factors*) and determinate motives that make certain countries attractive places to emigrate to (*pull factors*). No country can control all the variables at play. Although it is difficult to completely determine the factors that generate such flows, it cannot be denied that behind a great number of cases there is a deep and rigidified social inequality, an uncontrolled demographic growth, as well as an alarmingly negative impact on the economic, social and cultural structures of the sending countries. Ultimately, massive migratory flows are a clear symptom of a world far removed from a just distribution of wealth. If most world poverty constitutes an infringement of human rights (cf. Pogge 2002), in particular, a flagrant violation of Article 25 of the Universal Declaration of Human Rights (UDHR), which establishes the right of an adequate standard of living, then migrations for economic reasons—in fact, most international flows of people— are also the result of a flagrant violation of human rights. This is an injustice that cannot remain without a response, because one of the first implications of the notion of justice is the demand to put an end to situations of injustice, as well as to compensate those harmed by what has been done. In this way, "as long as the immense contrast between rich nations and poor ones persists, justice, which requires the wealthy to correct this as rapidly and as completely as they can, also demands that the wealthy nations should not raise and strengthen their barriers against the entry of people from poor ones" (Dummett 2001: 70).

23.3   State Boundaries, Justice and Global Institutions

Facing the conversion of immigration into a mass phenomenon, it becomes urgent to overcome the traditional conception of national boundaries—the emblem and epitome of state sovereignty. The intensity attained by the phenomenon of migration breaks apart the habitual juridico-political scenario for the realization of both social justice and democracy: the national states. The principles of justice are forgotten when national interests enter into play; in practice, such principles thus have some very precise material limits: boundaries. These concretize the primacy of state logic, one incompatible with the universal demands of justice. It cannot simply be accepted that a subject as arbitrary as the drawing of state boundaries—a product of historical contingencies, territorial struggles, cultural clashes and bureaucratic acts—is a morally relevant circumstance at the moment of applying

principles of justice.[4] Nobody chooses his place of birth and, as a consequence, nobody can be responsible for this. However, a boundary erected by administrative criteria allows somebody to enjoy from the outset, depending on the side on which she has been born, infinite material opportunities. Still others lack the minimum requirements for a dignified life. The criteria thus either accord individuals rights and basic liberties or deprive them of any legal protection. Sometimes, because of the imposition of boundaries, even some of the most basic obligations of interpersonal relations, such as the duty of assistance, are left in suspense.

We cannot determine whether a society is just without evaluating the criteria that determine the belonging to it, such as those that allow for the access, mobility and residence of the people in its territory. This is why both the criteria for the acquisition of citizenship (which will be examined in the following part) and those for the fixing of boundaries and their normative consequences constitute unavoidable questions for a theory of justice. In this way—following the spirit, if not the precise specifications, of Rawls—one could easily think that, without knowing where they will be born, the parties to the original position will want to assure themselves that no system of territorial boundaries will legitimate enormous disparities that impede access to the resources and opportunities necessary for the leading of a dignified life. If, on the contrary, current boundaries are accepted, rich countries that refuse to distribute their wealth would lose the right to make the crossing of their boundaries more difficult (cf. Kymlicka 2001).

If we accept that all human beings have the responsibility or, if one prefers, the duty to help fellow human beings who find themselves in a state of need, it is not very defensible to argue that this duty completely falls away with respect to those who find themselves beyond the boundaries of the state territory in which one lives. In this case, we would give ourselves over to a dubious notion of moral responsibility. Moreover, we would violate the principle of non-discrimination, of the equal consideration of all human beings. This does not imply, however, the denial of the existence of special duties with respect to those with whom we have established a recognized system of responsibilities (cf. Singer 1993: 232–234). On this

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[4] (Carens 1987) rightly argues that neither the libertarianism of Nozick nor the egalitarian liberalism of Rawls furnishes moral reasons to restrict the right of foreigners to enter or take up residence in a country and, at the same time, proceeds as if it had done so. The defense of boundaries very frequently shields collectivist conceptions of politics: "The moral relevance of boundaries [...] has always been the argument of those who have tried to put a stop to the validity of human rights by adducing the need to safeguard national particularities and collective identity, to which they attribute the same moral status as individual autonomy" (Garzón 1997: 23). Amongst the most well known defenders of a closing (albeit partial and conditioned) of boundaries and, above all, of an impeding of foreigners access to citizenship, can be found Walzer (1983: Chap. 2). In contrast to authors like Sartori, the case of Walzer is highly disquieting because he justifies his attitude with supposed criteria of justice. His position is indebted to a profoundly mistaken presupposition: an identification of the political community with the ethical—or ethnic-cultural—community (cf. Benhabib 2004: Chap. 3).

background, and despite the legitimacy of this path of argumentation, once having chosen it, we could easily end up in discussions about the nature of moral obligation that are not, at bottom, rationally decidable. This is why I prefer to dialectically emphasize the pragmatic consequences of acting in a non-cooperative manner.

Although it is difficult to reach a consensus concerning them, it is meaningful to put questions of the following tenor: is there a duty of assistance, based on the appeal to justice, that goes beyond the limits of the community that we form part of and find ourselves attached to by links of mutual cooperation and reciprocity? Are not all duties linked to a determinate social context? It is possible that many people coincide in judging as arbitrary the limitation of the spatial sphere of application of moral norms, of duties and obligations. But many would also disagree if the fact that the addressees of our works of assistance belong to our own community were considered irrelevant. Although it is certainly a verifiable fact that this last opinion is enormously extended, perhaps this is due to a lack of information. Whatever the case, it seems more pragmatic to argue in a consequentialist manner. Limiting our community of belonging to determinate political boundaries always implies overlooking the fact that the whole of humanity de facto shares the same world, that we are all continually interacting and establishing transactions.

Beyond the unavoidable imperatives of a globalized economy, there have been emerging in the last decades a whole series of issues and challenges whose etiology and resolution transcend state limits. This does not concern a mere sum of particular, although important, issues, but instead, something much more serious and relevant: that the human species as a whole appears to us as a community that, whether we like it or not, shares a global risk (cf. Beck 1986). This series of risks shared by all of the human community puts into question the role that the nation-state has to carry out in the face of problems that are restricted neither to the spatial boundaries between states nor to the temporal boundaries between generations. In this context, state boundaries have either become enormously porous or they have lost a large part of their relevance and function. This is why we can no longer continue to deny the progressive obsolescence of the state as the basic form of political organization. It is evident that "in a world more and more densely interlinked—ecologically, economically and culturally—the decisions that states can adopt in their territorial and social sphere coincide less and less with the people and territories that can be affected by them" (Habermas 1998: 109). However, the limitations not only affect the sphere of efficiency, but also that of the principles and ends of politics. In this sense, the logic that characterizes the state as a form of political organization is neither beneficial nor sensitive to a multilateral vision of international relations.

The issue concerning the consequences derived from the increasing interdependence of all peoples has still to be resolved in a democratic manner. Nevertheless, issues as crucial as the respect of human rights, the ecological equilibrium of the planet or the democratic management of world migratory flows require a deep transformation of the structural principles of international law (at least with regard

to the non-intervention in matters of internal jurisdiction, the sovereign equality of all states and the cooperation between them). Article 28 of the UDHR refers precisely to this: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized." It is clear that neither juridical-institutional frameworks nor moral legitimacy guarantee by themselves the resolution of conflicts, but without them, it seems difficult to even suggest an effective response. In a global context, in which systematic problems with a planetary reach are emerging ever more forcefully, all states are required to communalize resources, technology, information and also their authority, that is, a necessarily multilateral and coordinated response is required, which allow us "radically to restructure the world economic system" according to the obligations of justice (Beitz 1979: 127). The most serious global problems can no longer be adequately resolved in the narrow framework of nation states and the need for some kind of political integration of a supranational character becomes evident. The emergence of supranational entities of a regional or continental character responds to this proven need to act together. The path embarked on by the European Union is a very valuable experience and its example might generate other wider forms of integration across the planet.

All said, there is still much to do until we succeed in articulating a truly world authority, and the very idea poses a long series of questions that are difficult to resolve (cf. Höffe 1999). In addition to the establishment of a judicial power with jurisdiction on a world scale charged with protecting human rights, do we also need a permanent legislative power and an executive power that would have the task of imposing the necessary coercive means for the fulfillment of the sentences of the judicial power? More concretely, is the setting up of the already achieved International Criminal Court sufficient to effectively guarantee the international reach of human rights? Or, rather, are we not required to set up a world state in the strict sense? To give a proper answer to these questions we need a much broader and well-grounded theoretical framework.

23.4 Migrations: Making Citizenship Flexible

The political division of the planet frequently serves as a normative support for unjust distributions of the resources and basic opportunities that individuals can enjoy. The division into states entails the attribution to individuals of differentiated juridical conditions, conditions traditionally associated with citizenship. The relevance, centrality and actuality conceded to this institution are well known. In the sphere of migratory politics, the regulation of the acquisition of citizenship is an instrument that we can never do without, because it defines the horizon of expectations that are offered to the immigrant within a politics of integration (cf. Merle 2002). We cannot ignore that, in moral terms, the possession of a determinate

status of citizenship—like the delimitation of boundaries—is an arbitrary contingency that can come to dramatically influence the conditions of life for people. The dichotomy national/foreigner, common in juridical orders, is questionable in light of the general principle of equality of treatment, the prohibition of discrimination or the principle of human dignity. Nor can we do away here with egalitarian demands and the universalization of human rights.

Globalization inevitably constitutes the contemporary context of citizenship. Migrations and the multiplication of transnational networks—with their diffuse effects on a planetary scale—put to the test the customary conceptions of individual rights and obligations and also make evident the need to reformulate the territorial sphere of the classical notions of citizenship. The narrow connection of citizenship to the framework of the nation-state lends it a discriminating aspect. It is a scarce good that immigrants and exiles see themselves as being deprived of in an asymmetrically globalized world. Far from presenting itself as a universal principle, citizenship is a constitutive principle characteristic of every political community. Although it usually functions to close the political community, by means of the procedures of naturalization, it can also function to open it. However, in order to really secure this function, citizenship has to be disconnected from the act of belonging to a determinate state or national community. We could then talk of a transnational or denationalized citizenship: a citizenship understood as a condition of every individual, according to which persons have rights and obligations in any part of the planet in which they find themselves (cf. Velasco 2005).

In everyday practice, the condition of citizenship of a determinate state, to a large extent, prefigures the real possibilities of movement of an individual, in particular, her possibilities of emigrating to another state, as well as her juridico-political situation in the country in which she has been accepted. Behind this situation, in reality, two different issues are concealed, at least from an analytical perspective: that concerning the conditions of entry of immigrants and that concerning the juridical treatment that has to be given to those already installed in the country. In principle, these two issues allow for a differentiated treatment. If they were needed, we could adduce pragmatic and conjunctural reasons to justify restrictions on the entry of immigrants. These would not, however, justify the limitation of rights of residence.

In principle, current international law recognizes that any person has the right to abandon and return to the state of which he is a citizen (UDHR: Article 13.2). However, this same law does not consider the correlative right to be accepted by another state. This represents an enormous paradox, for if every person has an absolute right to abandon her country of birth, some states must have the duty to admit those who choose to exercise it (cf. Dummett 2001: 63). How can it be argued that denying entry to a country does not suppose a clear violation of a human right? However, it continues to be an exclusive prerogative of every state that it is allowed to decide who enters into its territory. Abolishing, or at least limiting, this prerogative would be an important step towards the achievement of a cosmopolitan citizenship and towards locating ourselves in the normative horizon of a global theory of justice. This step would undoubtedly require a new comprehension of

state sovereignty. In accordance with this principle, it is a common practice in international relations to argue that no state or international organism has the right to interfere in the *internal affairs* of other states and, even less, to meddle with the way in which it treats its own citizens (and, it goes without saying, those who are not). However, the fact of being a citizen of a specific state does not exclude anybody from being a member of the human species, nor from citizenship of a universal society (or a world community of human beings).

As Huntington observes (2004: 205), the path has been opening towards a new conception of citizenship, according to which this "is not a national status conferred by the state on individuals but a transnational right of individuals against states that they carry with them wherever they choose to reside." This is an important affirmation, given the evident animosity that this author shows in the face of the supposed devaluation of citizenship. Very different ideological spectrums coincide, however, in the same affirmation: "One of the most surprising advances of the end of the twentieth century in the field of immigration was the great reduction in legal distinctions between citizens and non-citizen residents" (Carens 2004: 398). The norm is still not a single and indivisible notion of citizenship, but it is increasingly a *flexible* conception of it (cf. Ong 1999; Bauböck 2004; Benhabib 2004).

Although it is generally claimed that there have been advances in the equality of treatment conceded to immigrants, there remain some significant gaps between the rights attributed to citizens and legal residents and those attributed to the *sans papiers* (or undocumented migrants), the modern *metics*, situated in the ultimate level of the civic stratification (cf. Morris 2002). We should focus on awarding an official status to the positive tendencies of equalization that are emerging and that, to a large extent, are consistent with the increasing awareness of the need to limit state sovereignty with regard to the definition of the "boundaries of the national community" (cf. Benhabib 2004). Many of the normative modifications would also be consequences that can be inferred from the universal demands of human rights. Nonetheless, in order to find a possible jurisdictional expression for this corollary, we would need to establish some kind of world organization that protects it effectively and in all aspects. There have also been advances in this respect, and the way has been opening to the appropriateness of the emergence of an authentic international constitutionalism or, if one prefers, a juridico-political authority on a planetary scale (cf. Habermas 2005: Chap. 11). Without a doubt, if we want to integrally protect human rights, including also the human rights of immigrants, we need to promote concerted international action. Although it is not at all certain that national governments are becoming sufficiently aware of it, globalization and human rights are making possible a new framework of demands, the elements of a new discourse about human rights (cf. Sassen 2005). If globalization presents itself above all as a mechanism of overcoming cultural barriers, now is the time to also understand it as a mechanism allowing us to overcome political boundaries. Seen in this light, globalization is a discourse that also has to find its specific expression in the sphere of migration politics.

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