American Behavioral Scientist

Introduction: New Perspectives on the Ethics of International Migration
Ricard Zapata-Barrero and Antoine Pécoud
American Behavioral Scientist published online 27 April 2012
DOI: 10.1177/0002764212443818

The online version of this article can be found at:
http://abs.sagepub.com/content/early/2012/04/26/0002764212443818

Additional services and information for *American Behavioral Scientist* can be found at:

Email Alerts: http://abs.sagepub.com/cgi/alerts

Subscriptions: http://abs.sagepub.com/subscriptions

Reprints: http://www.sagepub.com/journalsReprints.nav

Permissions: http://www.sagepub.com/journalsPermissions.nav

>> OnlineFirst Version of Record - Apr 27, 2012

What is This?

Introduction: New Perspectives on the Ethics of International Migration

Ricard Zapata-Barrero[1] and Antoine Pécoud[2]

Abstract

This introduction provides an overview of the issues addressed by this special issue and of the content of each article.

Keywords

ethics, governance, migration

The ethics of international migration is a relatively recent field of study. The cross-border movement of people has long been ignored in political and social theory, which tended to take for granted the existence of nation-states and "bounded" societies with a fixed population. This is paradoxical, as emigration has historically constituted a real-world answer to injustice, oppression, and inequality.

One could argue that justice can only be thought of—and therefore possibly achieved—within a bounded group or entity. Theories of justice would then logically be confined to national borders; admission or immigration questions, by contrast, would deal with outsiders and could therefore be based only on realpolitik and on what states consider to be their interest. Only a few core elements of international law would apply, such as the *non-refoulement* principle, the right to seek protection, or to family reunification, as well as the more general idea that all human beings (including therefore irregular migrants) should have access to the protection of fundamental human rights.

Yet immigration and admission do raise fundamental ethical issues. This is all the more the case at a time when restrictive migration policies lead to outcomes that are ethically or morally questionable (Parker & Brassett, 2005). For example, Weiner

[1]Universitat Pompeu Fabra, Barcelona, Spain
[2]University of Paris 7 UNESCO, Paris, France

Corresponding Author:
Antoine Pécoud, UNESCO, 1 r. Miollis, 75015 Paris, France
Email: antoinepecoud@hotmail.com

(1996) notes that states' practices in the field of migration and asylum involve the exercise of coercion in situations in which no harm to others has been done. This may be the reason why, since the 1980s, and particularly after the pioneering work by Walzer (1983) and Carens (1987), there has been an impressive development in ethical thinking in relation to international migration. In this process, the existence of borders and the very notion of state sovereignty were questioned.

Such debates have proven extremely complex and far-reaching, but the key positions are by now relatively well-known. On one hand, the liberal egalitarian perspective holds that restrictions on people's mobility cannot be justified because they imply discrimination on the ground of migrants' nationality—hence the cosmopolitan plea in favor of open borders and freedom of movement and Carens's argument that citizenship is a birthright privilege incompatible with liberal-democratic values. On the other hand, justifications for states' right to close (or control) their borders rely on several arguments, including the communautarian assumption that people have the right to preserve a way of life that is vital to both collective and individual development, or the premise that individuals have the right to create clubs and determine their membership.

In practice, however, the opposition between these approaches is less hard than their diverging arguments would imply. Carens (2003) thus seems to accept the need for some degree of closure, whereas communautarians recognize the relevance of a "thin" universalism and the need for admission policy to follow certain core ethical norms. This may have to do with "real-world" evolutions. Current research on migration increasingly recognizes the normality of the cross-border movements of people; this has an impact on research agendas, which move away from "open versus closed border" binaries to more realistic and pragmatic discussions of how migration should be governed.

From an ethical perspective, this puts the emphasis on applied ethics. The recognition of the normality of the cross-border movements of people leads to a new research agenda, in which the debate is no longer structured around a *cosmopolitanism versus nationalism* opposition (or *open versus closed borders*) but regards a more realistic discussion of how migration flows are to be governed in accordance with the principles and values of liberal democratic states. In this perspective, states' authority over their borders is admitted and the question then regards their moral obligations and responsibilities in exercising this prerogative. This is in line with the recognition that mobility is a central feature of contemporary societies; borders are then not only the place where access to a state's territory is controlled, but also places around which the economic, political, and cultural openness of countries is organized.

This new paradigm of human mobility also fuels "managerial" approaches to migration and, in typical policy jargon, to statements such as, "The question is not *if* we shall have migrants; it is *how* we shall meet that challenge. The object must now be optimal management, not denial" (Spencer, 2003, pp. 2-3). The "management" of migration flows raises fundamental ethical concerns, which have to do both with

admission policies and with the treatment of migrants in receiving states (Zapata-Barrero, 2010). Indeed, "migration management" is often presented as a third way between open and closed borders, thus implying mechanisms of fine-tuning of immigrants and, consequently, the durable establishment of civic stratification within receiving societies (Geiger & Pécoud, 2010). Weiner (1996) reminds us that, when it comes to selective migration, "the line between preferences and discrimination, though it has some merit, is a morally thin one that is easily crossed" (p. 178). And Walzer (1983) has made a strong case against differential in treatment between migrants and non-migrants: Countries with loose immigration but strict naturalization policies unfairly behave "like a family with live-in servants" (p. 52); he adds,

> Democratic citizens, then, have a choice: if they want to bring in new workers, they must be prepared to enlarge their own membership; if they are unwilling to accept new members, they must find ways within the limits of the domestic labour market to get socially necessary work done. And those are their only choices. (p. 61)

This special issue further explores these questions by addressing the ethical questions raised by existing migration policies. It aims at promoting a discussion, not so much about what states actually do in the area of international migration but rather about the ways to critically discuss the key ethical issues related to their political answers to international migration. As Carens (1997) argues, this requires an attitude of both critique and pragmatism:

> How should liberal democrats think about the issues of immigration from a normative perspective? Every normative political theory or moral analysis has to satisfy two requirements: criticality and feasibility. On the one hand, moral language loses all its meaning if it does not provide some perspective from which to criticize prevailing practice. On the other hand, moral inquiry loses its point if it cannot guide practice. As the old dictum has it, ought implies can. (p. 3)

This leads Veit Bader, in the first contribution, to propose a framework of reflection connecting migration policy and ethical dilemmas, and the relationship between politics and knowledge/science in what is often referred to as global governance. Although researchers are expected to productively contribute to policy making, the way in which this can be achieved remains, he argues, unclear, for reasons that have to do with knowledge uncertainty, the complexity of migration dynamics, and the unintended (and sometimes counterproductive) consequences of policies. He thus suggests that if social and human sciences cannot necessarily tell "what should be done," they may be better inspired in determining what policy makers should *not* do. Bader outlines certain fundamental ethical norms that could serve this end, while warning that migration policies are, like many other policies, often unable to live up to even the most minimal moral requirements.

Ricard Zapata-Barrero discusses the need for states to adopt—and rely on—an ethical code for international migration management. He argues that migration policy makes for an ethical context characterized by moral dilemmas, insofar as it is difficult to irrefutably know if the decision to "allow or deny entry" of newcomers is good or right. This highlights the need for an applied ethics approach drawing a normative map in a world in motion; he then proposes an ethical code of practice regulating state behavior at three levels: admission policies, diplomatic relations with sending states, and inter-European state relations. Zapata-Barrero contextualizes this argument by looking at the current 5-year strategy of the EU Stockholm Programme and the migration polices of EU and European states.

Aristide Zolberg's starting point is Herman Melville's question "Why not the whole world?" asked in the face of the first American "immigration crisis" occasioned by the Irish potato famine of the 1840s. On this basis, he develops a historical overview of migration dynamics and policies while discussing the arguments surrounding the "open borders" scenario. Zolberg argues that although free movement is unrealistic under present world circumstances, this ideal cannot be abandoned as it constitutes a vital stance in any normative discussions of immigration policies.

Marit Hovdal-Moan asks whether the state's sovereign right to exclude noncitizens at its border entails that it is also free to choose the extent of its positive obligations toward noncitizens already living on its territory. She underlines the two main views prevailing on this question: In the *convergence* view, state sovereignty at the border implies that, broadly speaking, the only positive obligations the state has toward resident noncitizens are those that it voluntarily assumes; by contrast, according to the *separation* view, state obligations toward noncitizens in society's social, economic, and political spheres cannot be settled with reference to its power in the immigration policy sphere. The article critically examines the validity of the voluntarist account of positive obligations that underlines the convergence view. In particular, Hovdal-Moan shows that the state cannot be conceived of as ontologically independent because state borders are sites of interaction, which inevitably place states in obligation-generating relationships into which they have not necessarily chosen to enter.

With similar concerns, but addressing the case of victims of trafficking, Bridget Anderson considers the argument according to which immigration controls can be protective of migrants (and especially of victims of trafficking). She examines how the avoidance of "harm" has become a central claim in immigration enforcement rhetoric and considers the implications of this with particular reference to children. Anderson argues that the language of protection and harm risks inscribing the state as an appropriate protector, not just for children but for at-risk migrants more generally. But this is deeply problematic as, through immigration controls and practices, the state is implicated in constructing this vulnerability.

Antonina Levatino and Antoine Pécoud address the ethical implications of skilled circulation and the brain drain this can lead to in less-developed countries. They examine the way these challenges are treated in international debates on migration policy, whose purpose is to achieve so-called "triple-win" objectives that would meet both

sending and receiving states' interests. They highlight the ideological assumptions and contradictions within such discourses and shed light on the tension between neoliberal support of labor migration and "humanitarian" concerns with the situation of left-behind populations, between *laissez-faire* and interventionist approaches, and between a desire for "orderly" migration and the respect for labor market needs.

Finally, Martin Ruhs examines the current status of the 1990 International Convention on the Rights of Migrant Workers and Members of Their Families, which attempts to establish minimal standards in the way migrants are treated throughout the world. But fewer than 50 countries have ratified this treaty, which leads Ruhs to ask what explains this very low level of ratification. He argues that the key reason relates to the perceived consequences of extending rights to migrants, in terms of the costs and benefits for the national interests of receiving states. He then argues that migrant rights cannot be analyzed and debated without an explicit discussion of how they influence the impact of migration for receiving countries, migrants, and their countries of origin—which calls for a political economy approach to migrants' rights.

Acknowledgments

Declaration of Conflicting Interests

Funding

References

Carens, J. (1987). Aliens and citizens: The case for open borders. *Review of Politics, 49*, 251-273.

Carens, J. (1997). The philosopher and the policymaker: Two perspectives on the ethics of immigration with special attention to the problem of restricting asylum. In K. Hailbronner, D. Martin, & H. Motomura (Eds.), *Immigration admissions: The search for workable policies in Germany and the United States* (pp. 3-51). Oxford, UK: Berghahn Books.

Carens, J. H. (2003). Who should get in? The ethics of immigration admissions. *Ethics & International Affairs, 17*(1), 95-110.

Geiger, M., & Pécoud, A. (Eds.). (2010). *The politics of international migration management*. Basingstoke, UK: Palgrave.

Parker, O., & Brassett, J. (2005). Contingent borders, ambiguous ethics: Migrants in (international) political theory. *International Studies Quarterly, 49*, 233-253.

Spencer, S. (2003). Introduction. In S. Spencer (Ed.), *The politics of migration: Managing opportunity, conflict and change* (pp. 1-24). Oxford, UK: Blackwell.

Walzer, M. (1983). *Spheres of justice: A defense of pluralism and equality*. Oxford, UK: Robertson.

Weiner, M. (1996). Ethics, national sovereignty and the control of immigration. *International Migration Review, 30*, 171-197.

Zapata-Barrero, R. (2010). Theorizing state behaviour in international migrations: An evaluative ethical framework. *Social Research, 77,* 325-352.

Bios

Ricard Zapata-Barrero, Professor of Political Science, Universitat Pompeu Fabra, Barcelona, Spain. Director of the Interdisciplinary Research Group in Immigration GRITIM-UPF.

Antoine Pécoud is a research associate at URMIS (University of Paris 7) and a program specialist at UNESCO in Paris.