

HUMAN MOBILITY AND COLONIALITY.

The phenomenon of migration within global capitalism



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If we understand migration as the “movement of people through space in relation to the forces that structure the political economy” (Nina Glick Schiller), we must approach it as a historical process –conditioned by structural imbalances– whose dynamics are associated with the expansion of capitalist relations, in the reconfiguration of a world system interconnected by multiple networks of unequal power, where “institutions of power of global reach”¹ also act. Within this dynamic, migrations contribute to the process of development (and accumulation by dispossession) of the countries of destination –as a significant modality of transfer of “resources” (economic and human) for the benefit of big capital– associated with the emergence of forms of super-exploitation of immediate labor through the cheapening of labor, depriving the countries of origin of their labor force.



Therefore, the current global restructuring –of neoliberal capital– cannot be separated from migration: global capital² “drives migration and reconfigures its patterns, directions and forms” (Castles and Delgado Wise), where the world system of power –in the “Globalized” stage of the capitalist mode of production– seeks the conformation of a new international economic and political order, through the reconfiguration of the global labor market, within the new pattern of accumulation that orders “the bases of new systems of exploitation” (Baró Herrera). In this way, it will create a strong pressure to migrate in the main “expelling zones”, generating a lack of job opportunities, and building vulnerabilities that allow the world’s workers to be subjected to conditions of extreme exploitation (Márquez Covarrubias). Consequently, transnational (subordinated) migration will grow along with the increasing inequality between North and South.

The control of “Labor” (and consequently, of labor mobility) develops as a basis for this unequal articulation –of global power relations– through a progressive process of labor market segmentation that adds different forms of differentiation of the labor force, established on the basis of selectivity criteria (inclusive/exclusive) that derive in legal status: on the one hand, “human capital” (possession of education, training and labor skills), and on the other, gender, race, ethnicity, origin³, which build or deepen vulnerabilities, where the immigrant community has been destined to those jobs that are more insecure and low-wage.

As a complex phenomenon, international (labor) migration is embedded in the history of political relations between sending and receiving societies (whose political power is unequally distributed), whose dynamics depend on the labor needs of the global system as a whole (Portes and Böröcz). In the current hegemonic phase of neoliberal globalism, the expansion of capitalism leads to the reproduction of these inequalities, reinforcing the stratified economic order, and migration is therefore a reflection and product of these inequalities. Consequently, current migration dynamics are intrinsically linked to multiple and interconnected strands of global coloniality.

As a global phenomenon, migration generates multiple tensions for capitalist modernity, in times of globalization and financialization: between national sovereignty vs. human rights; between countries of the North vs. countries of the South; between legality (regulation) and illegality (deregulation or flexibility); between mobility (transnational migration) vs. “immobility” (spatial confinement or “ghettoization”), etc. Such tensions are expressions of broader (contextualizable) conflicts between North and South, and must be analyzed within the capital-labor relation in very changing neo-colonial⁴ contexts.

Within such global contexts, migratory flows must be adjusted to the interests and needs of the world capitalist system, for which the application of⁵ migratory policies and legislation must contribute to reinforcing the differentiation and segmentation of the labor market, “essentially to the accumulation, growth and concentration of capital, as part of the market for cheap labor, whether skilled or unskilled” (Álvarez Acosta), with the understanding that the labor-migration relationship is “revalued” as a “commodity”.

The long negotiation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (known as the CWM) was a notorious example of the tensions generated in this neo-colonial context in relation to the generation of global migration regulations.

Some of the early drafts of the Convention were marked by an antagonism between migrant-sending (“developing” and “least developed”) countries and migrant-receiving (“Western” Industrialized)⁶ countries. Workers in sending countries have become part of global value chains controlled by multinational corporations, so sending countries push for regulations aimed at protecting their nationals in the latter. Thus, in relation to the CWM itself, Mexico and Morocco, supported by the Group of 77, were in charge of leading the project, being the sponsors of the first draft text of the Convention, along with Algeria, Pakistan, Turkey, Egypt, Barbados and Yugoslavia. The first proposal⁷ “contained several references to the New International Economic Order (then current draft), to the social costs and economic effects of labor mobility in sending and receiving countries”, with a focus on promoting the interests of their populations living and working in industrialized countries.

Already the first draft text of the Convention (CRP.7, 1980), submitted by the Group of 77 (“developing” countries), sought to focus the world’s attention on the discriminatory treatment of migrant labor by some industrial “employment” states (Germany, France and the United States), using the negotiations and the draft Convention as an instrument to achieve political, moral and criminal condemnation at the United Nations.

In response, the latter countries –along with Australia, Canada, Denmark, the Netherlands and, later, Japan– defended the right of each state to determine the criteria for entry and regularization of foreigners, with only one

distinction: that of the European (and ILO) concept of migration policies, and the approach of the other Western countries favoring a policy of “permanent immigration”.

The United States stands out in this latter approach, which endeavored to ensure that the CWM project meets high legal standards and that its content is as close as possible to its interests, by means of an ambiguous regime that guarantees the government a great deal of room for maneuver (the granting of permits being optional), allowing it to condition the scope and implementation of international “protection” without this apparently implying a violation of international law. Equally, such ambivalence restricts the scope despite its rules on the treatment of undocumented workers.

However, such ambiguity is not accidental: it reflects the two asymmetrical positions of US governance (right-wing “white” and far-right elites) in confronting the new demographics of the United States in the 21st century: according to estimates made by the US Census of Population by the mid-21st century, “people of color” will constitute the demographic majority of the country. The “panic” –major or minor– caused by the number of “Latinos” (especially Mexicans) in the United States –which will increase as white-Anglo Americans begin to realize the real possibility of becoming a minority in their own country⁸– sets the stage for the “criminalization of illegal migrants”⁹.

The two asymmetrical positions in which American “white elites” fluctuated are two forms of political domination –reproducing new and old forms of apartheid– under the guise of democracy: apartheid forms versus neo-apartheid forms. The first –apartheid forms of political control– (promoted by the protectionist American partisan far right) is an apartheid form of democracy, where a white demographic minority: “controls the political, economic, cultural and social structures of the country, excluding a large non-European demographic majority from the structures of power. This is already the case in 70% of American cities since the late 1990s” (Grosfoguel/ Maldonado). In this first form, explicit forms of exclusion and discrimination are proposed, in order to keep “migrants” under the legal status of “illegal”, and thus excluded from civil and human rights¹⁰, which would amount to approximately 12 million people.

The second –neo-apartheid forms of political domination– (driven by the pro-neoliberal US partisan right) poses more complex and subtle forms of domination and exploitation by the “white elite”. It implies “continuity of apartheid forms of exclusion and racial segregation in contexts where human beings are formally and legally conceived as equals” (Grosfoguel/ Maldonado). It offers a guest worker programme: “where immigrants from the South can work without equal civil and labor rights and as a cheap labor force within the United States”. They can have legal residency in the US but at the same time: “allows the deportation of millions who have not lived long enough in the country, while those who have the right to

remain settle for fewer rights than ordinary citizens”. The legal status of these people also reproduces “white supremacy”: many of its “beneficiaries” perceive other minority groups as rivals and often reproduce racist discourse towards them.

Coloniality and migration

There is a direct relationship between the production and reproduction of dignified living conditions¹¹ (in a given mode of production) and the production of roots and eco-territorial belonging (linked to cultural identities and social security). As long as people’s living conditions are secure, their migration will be voluntary, transitory and safe to return. If they are violated, they will produce induced uprooting, identity limbo and involuntary migration (political or economic).

Given the conditions generated by the neo-colonial context, in this stage of neoliberal globalism (and social and political responses to it), the distinctions between voluntary and involuntary migration, and between economic and political migration, have become blurred. They arrived in destination countries, after they “arrived” in their countries first, as part of a process of colonialism (or neo-colonialism) –extractivist in nature– that has provided great wealth and privileged “lifestyles” to post-Fordist and post-modern capitalist centers. This process has deepened labor migration to the more “stable” capitalist centers (United States, “Western” Europe, Japan), as part of the socioeconomic crises induced in the periphery, resulting in the commodification of migrant labor.



Author: UNHCR Photo: Repatriation of Chad from the camp of Kousseri in Cameroon. [Flickr].



The induced deterioration of ancestral, traditional and communal ways of life (of production and reproduction of life) in peripheral countries (Global South), by colonial and neo-colonial systems of domination, has rendered the question of the voluntary or involuntary character of migration meaningless: migrants aspire to or attempt to (re)create new “communities” in response to the collapse of their “home” communities (destruction of community fabric), which are either on the verge of disintegration or whose members no longer find in them roots or security (personal and social) to face the neo-colonial challenges of the global neoliberal context: uncertainty, precariousness, exclusion from work. Consequently, migration reflects the processes of disintegration or deterioration of systems of rootedness or belonging (community, traditional, ancestral). Thus, the history of the world system is “a history of unequal exchanges that are the cause of war, hunger, oppression and ecological disaster that force people to migrate” (Santos).

It is untenable to understand the causality of the migration phenomenon without considering the continuous processes of colonialist extractivism –which mark the asymmetrical development of relations between North and South– through multiple modalities. The “institutions of global power” (Márquez Covarrubias) of the financial capital of militarily powerful states intervene and penetrate the institutions, the economy and the daily life of all other countries. The resulting power imbalance determines the circumstances that force people to migrate, while shaping the conditions under which they try to settle¹².

The core countries continue to collect stable income – directly or indirectly– at the expense of the periphery:

a) Structural Adjustment Programmes and Economic Partnership Agreements

Current migration responds to the contexts created by the “catastrophic transformations”¹³ that have taken place in many countries in previous decades, as a consequence of the collapse of traditional agriculture, the creation of production areas “for export”, Foreign Direct Investments (forms of transnational enclaves), and the Structural Adjustment Programmes promoted by the International Monetary Fund (IMF). In this scenario, so-called “forced migration” is nothing more than: “human mobility caused by the dynamics of accumulation of the world capitalist system, unequal development

“Given the conditions generated by the neo-colonial context, in this stage of neoliberal globalism (and social and political responses to it), the distinctions between voluntary and involuntary migration, and between economic and political migration, have become blurred.”

and the process of nonlinearization that destroy development models in peripheral countries, disarticulate the dynamics of valorization and

disconnect large population contingents from their means of production and subsistence, generating a large overpopulation that has the need to leave their place of origin in the search for subsistence, particularly in the central countries, which are interested in exploiting abundant cheap, flexible and disorganized labor force”(Márquez Covarrubias).

b) The predatory action –for decades– of Transnational Corporations (“externalities”, “collateral damage”) and/or of international criminal networks “territorialized” in the countries of the South, inducing mass exoduses.

Those migrant groups that come from colonial or neo-colonial experiences are statistically the ones with the highest poverty rates, historically derived from the interventions of multinationals in their ancestral territories. As a result, in the United States, Mexican, Guatemalan, Salvadoran, Puerto Rican and

Chicano migrants share the bottom of the “ethnic racial hierarchy” (Grosfoguel) along with African Americans, indigenous, Filipino and Pacific Islander migrants.

c) The promotion of economic and social crises (rural exodus, unemployment, etc.), secessionist conflicts in peripheral countries, wars between states, generating manageable “chaos”, generating migratory flows.

This promoting action includes all forms of intervention¹⁴, of: “deliberate penetration –through military coercion, economic supremacy (including control of investment, international market and labor recruitment) or cultural diffusion– of peripheral or subordinate societies by advanced societies (which) creates internal structural maladjustments in the former. Such misalignment is the real cause underlying and sustaining labor migration” (Guarnizo). In this way, the US government came to encourage massive migration in



Author: International Monetary Fund (IMF). Photo: CNBC debate on the global economy.

several countries where direct interventions (or US military support) were required to help or establish anti-communist and “pro-US” dictators (generating the so-called “colonial immigrants” (Grosfoguel/ Maldonado).

d) Gradual forms of prior cultural and economic penetration by the receiving society into the sending society, as a conditioning factor of migratory flows –via “cultural imperialism” or aesthetic colonialism– (coloniality of knowledge).

Coloniality and migration regulation

It was noted earlier that, as a consequence of the growing inequality between North and South, transnational migration will increase; but not just any migration, but those that are subordinate, and in particular the so-called “irregular migration”, which is represented by those people who: “come from the peripheral or semi-peripheral regions and who dare to benefit from the facilities that have been accumulated in the center, often at the expense of those same regions” (Santos).

The role that migration has played in the history and contemporary reality of capitalism must be understood. The friction between “migration policies” (market forces that demand freedom of movement of labor) and “control policies” (political forces that demand quotas on immigration, warning about the issue of security and integration in receiving societies) is at the heart of the history of capitalism, for a regime that attempts to control or attenuate the mobility of such labor plays a strategic role in the constitution of class relations within capitalism. Therefore, the mobility of capital implies, as a counterpart, the control of human mobility, which, in turn, derives geopolitically in an international (or rather, transnational) control: controlling global mobility means controlling the continents (America, Africa,



Author: El Universo newspaper. Photo: Benghazi: a crowd of people take Tripoli.

Asia), and controlling them means controlling global mobility.

The “irregular (or illegal) immigrant”, as a specific legal concept-axis of public discourse-control policies, only came to prominence with the radical change in migration policies implemented after the 1973 oil crisis and the crisis of Fordism in the early 1970s. The end of the period of Fordist capitalism seems to coincide with the end of a cycle characterized by forms of permanent migration and settlement. One of the main features of this period is a mode of international division of labor, which implies a new spatial division of labor (Santos) that brings with it a substantial reduction in the demand for mass industrial labor, usually satisfied by immigrants. While today only four countries accept permanent migrants (Australia, Canada, New Zealand and the United States), virtually all other countries are participating in an international system of temporary migration. Already in the 2000s, the “structural crisis” of the capitalist system hit the main destinations of international migration flows particularly hard, along with the implementation of restrictive and xenophobic migration policies by these same nations. Therefore, from the point of view of global capitalism, irregularity appears as an ambivalent condition: in its “mobility policy”, irregular migrants “occupy a diffuse boundary between inside and outside, inclusion and exclusion” (Mezzadra); and legally, such a position is part of this mechanism: irregularity “is one of its products and a key condition for its functioning”.

In the face of such “irregularity”, during the CWM negotiations, countries such as the

US, France and Japan attempted to solve the “problem” through extensive regularization programmes¹⁵ that required –at the same time– greater controls for new entrants and greater multilateral harmonization of policies¹⁶. For host countries, regularization does not necessarily mean prohibiting legal entry, but allowing legal entry under certain conditions that allow for the accumulation of transnational capital through its subordinated integration into the new apparatus of global domination. Thus, with the tacit acceptance by central states, the “irregular” (highly mobile) labor force has increased in recent decades, as it offers maximum profit to transnationals (no payroll taxes, growth, etc.), where the exploitation of migrants is localized throughout the entire migration process and experience.

The subordinated integration of migrants means that they do not arrive in an empty space, there is no neutral space of integration for migration: in addition to arriving in a space plagued by coloniality –spaces containing history, imaginaries, knowledge, all colonial– they also arrive in a context framed in the stage of globalizing neoliberalism, which “puts limits” on identities under multiculturalist ideology. Therefore, migrants who are “admitted” enter a space with power relations already constituted by coloniality, in which old colonial-racial hierarchies (of Europeans/Europeans vs. non-Europeans-dark-skinned) are reproduced and consolidated (Grosfoguel).

Global capital attempts to reduce and exploit the “surplus” of mobility to its value code through the mediation of modern states –and other political and administrative mechanisms–

whereby a main function of the latter will be the implementation of flexible border controls for the benefit of capital as a whole (Santos), which, together with migration policies, are used as “instruments of the racist, colonial, capitalist and hetero-patriarchal system in an economy of exclusion” (World March of Women), serving to maintain global inequality in the world system.

In this sense, the principle of state sovereignty implies for “Western countries” the generation of a democratic deficit: its confirmation will admit of being transformed to operate “against the truly dangerous intruders”: in public discourses, irregular migrants have been presented as intruders and, therefore, as a major threat to the sovereignty and security of the state. However, the “intruder”, the migrant worker, employed “clandestinely” in the informal economy, is an emblematic factor in the current “Globalized” era.

The price of free movement would be increased vulnerability to transnationalized systems of repression and information. Thus, although in West Germany the entry of migrant workers from outside the European Union was banned in 1973, the number of foreign residents continued to grow due to family reunification (Santos), and family reunification and asylum became the main means of legal and permanent entry into the European space. This has become a major problem for the core countries, as the acceptance of migrants for labor market reasons became only a small part of the total inflow of people, compared to permits granted for family reunification or “illegal” immigration in most receiving countries.

However, the issue of family reunification entailed an epistemological and legal reduction: the legal concept of family. During the CWM negotiation rounds, the MESCA group (originally consisting of seven small and medium-sized European countries) produced drafts of the draft whose content socially represented European and Western human rights values, and specifically the concept of “family members” –in Article 4– based on the common “nuclear family” (in Western industrialized countries of employment). Thus, the –often polygamous– family common in some “developing” and Islamic countries was excluded, with important legal consequences for the determination of the scope of family reunification. In the end, the wording stipulates that the concept depends on the interpretative criterion of “applicable law”, which in practice ends up favoring “countries of employment” because their applicable law is based on the concept of the nuclear family. In any case, the reality shows convincingly the extent to which contemporary female migration tends to reproduce gender and class subordination¹⁷.

In order to “prevent” family reunification –and other forms of legal and permanent entry– that may “affect the labor market”, border surveillance –in which different forms of force and violence are present– is articulated within more complex structures: through this surveillance and citizenship policies, nation-states intervene on a daily basis –under the conditions imposed by an emerging global regime of migration management– in a continuous process aimed at politically and legally constituting internal labor markets.

It is here that the global regime of migration management establishes new devices to place the human right to migrate at the service of coloniality: human rights legislation on human mobility translates into a coloniality of human rights, producing segregation, racism, hierarchization, exclusion.

Coloniality and Temporary Statutes

The new arrangements are the so-called “Temporary Protected Status for Migrants” (TPS in the United States). As noted above, in certain countries (Australia, Canada, New Zealand and the United States) it is an exception to their customary acceptance of permanent migrants by participating –at their convenience– in the international temporary migration system designed by the global migration management regime.

According to the public and media discourses of the receiving states, they seek to protect the fundamental rights of migrants, who would be allowed to stay legally in the country, as well as the provision of health services, education and formal work, thus guaranteeing human rights to groups of migrants who have been officially characterized as people who are “fleeing massively and desperately from the persecutions and violations against them” –which would give them the legal status of asylum seekers and refugees.

In the United States, TPS was created in 1990, through the Immigration Act¹⁸ during the George H. W. Bush administration, granting since then extraordinary permits to migrants from countries that the US government

considers to be suffering from armed conflicts or natural disasters (originally it was aimed at the Salvadoran population affected by war)¹⁹. Recently, President Joe Biden’s administration granted it to Venezuelan²⁰ “asylum seekers and refugees”.

However, the US has historically been an extreme example of political bias and discretionary selectivity in the application of refugee law. There, around 400,000 immigrants from 11 countries have TPS, while the group of countries currently designated for such a ‘benefit’ are: El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Sudan, Syria, Yemen and Venezuela, all of which have been intervened –directly or indirectly– by US global domination policies, revealing the coloniality of migration unfolding within the new neo-colonial context described above.

According to it, de facto discrimination –based on geopolitical considerations– will replace de jure discrimination (Santos), where depending on the geopolitical context, the right to receive (asylum) takes precedence over the right to be received (refuge)²¹. Thus, the strategic objectives of US geopolitics are developed through the double standard of migratory selectivity: the “double standard” is applied according to the hemispheric or global agenda as a function of hegemonic positioning in the international arena. Thus, “immigration policy” has been presented as highly generous and humanitarian towards migrants from countries considered adversaries (Cuba, Nicaragua, Iran, Syria, Venezuela), while being, on the contrary, enormously discriminatory and inhumane towards migrants from countries considered allies (Mexico,

Guatemala, Haiti). It should be noted that an element omitted from the public discourse on the validity of such regimes is that the government administration can terminate them at any time in the event of a threat to national security, public order, public safety or public health (in fact, the United States has the power to terminate TPS, as in fact happened during the Trump administration in the cases of Haiti and Honduras).

On the other hand, such regimes exclude their supposed “beneficiaries” from potential definitive integration on a discretionary basis: while they may stay temporarily, most migrants do not have residence visas. The underlying rationale of such a regime is subordinated to the integration policies of racialized migrants²². Thus, there are multiple experiences of integration or non-integration into the United States, resulting in various neo-colonial effects: identity inferiority, utopianism of other places, utopia, dependency, uprooting, etc.

There is also a cultural objective behind the regime: those who are “accepted” are “accepted” under the premises of neoliberal “multiculturalist integration”. Neoliberal globalism “functions rather as an immense machinery of universal “inclusion” that seeks to create a smooth, unruffled space in which identities can slide, articulate and circulate in conditions that are favorable to globalized capital...exploiting sociocultural diversity to its advantage (satiating capital’s irrepressible appetite for profit). and through multicultural ideology...seeks to turn the plurality of cultures into a prop for its reproduction and expansion” (Díaz Polanco).

Imperial neo-colonialism has “ethnophagous” characteristics in that it uses “subtle” methods of attraction, seduction and transformation of the “Other” (the identitarian and culturally different, the migrant). This ethnophagy takes shape as a set of “subtle dissolving forces” of the system (Díaz Polanco) and incites others “to penetrate its order”, it seeks to draw them into its “imperial order” as a key device of local-global domination. It seeks their gradual dissolution through attraction, through a set of sociocultural and economic magnets deployed to attract, disarticulate and dissolve different groups.

But such multiculturalism “is only tolerant of the Other if the Other ceases to be an Other, if it loses the core of its otherness”. What is presented as a defense of difference is reduced “to a permissive liberal tolerance that is the consumerist reverse of mercantile homogenization” (Bensaid). Involving the renunciation of putting political claims (such as the acquisition of citizenship rights, or nationality) on the table, the system gives way to open entry, to “soft integration”, producing true cases of “foreign citizens” or “immanent excluders”: “irregular migrants are incorporated into the political community as economic participants, but are not considered ‘included’” (Anne McNevin).

In this sense, the aim is to construct colonized subjectivities, “identities” (or rather, identifications) that are a kind of ephemeral identity (in Bauman’s terms, liquid), innocuous to the globalizing and individualizing system. Such identification is a substitute for the collective, it is the hidden side of the neo-colonial project that produced in the

peripheral countries processes of individualization and fragmentation, destroying the traditional community fabrics, generating an unbearable anomie as a generating factor of subordinated migration.

In this way, the relationship between the exploitation of labor and the valorization of capital is raised alongside an understanding of the transformations of citizenship and “identities”. For all their differences, the “immigration policies” of the core countries illustrate the extent to which their unconditional commitment to their “national interests” leads to decisions against foreigners, as well as to arbitrary and discriminatory distinctions between foreigners (Santos). Despite this, “white elites” will argue that, despite all the problems of discrimination, their countries are exemplary “democracies”. The neo-colonial approach, which operates by pretense on the idea of refuge (as a basic human right), turns it into a generous and “charitable” concession by the host country, creating hierarchies between citizens and non-citizens.

The “problem” for the core countries is that migrants (documented and undocumented) act as if they were citizens, and insist that they are already citizens, so the ambivalent response of the core countries is that there will be no recognition of migratory conditions that affect the political order (position of the ultra-right) or the economic model (position of the neoliberal right) imposed by the neo-colonial context.

Thus, Temporary Protection Statuses operate in an “ethnophagous” sense, as they act as “magnets” that attract behind their apparently

undeniable “benefits” (where the acquisition of the host country’s nationality is on the imaginary horizon) and their alleged “humanitarian” character (access to the privileges of the central country’s lifestyle). However, what is hidden from the discourse –and therefore from the imaginary– is that the “benefits” of the statutes will not be exercised immediately or benefit the population automatically, as they require a series of conditions that will be assessed and considered in a discretionary manner, taking time to implement properly. These legal regimes therefore produce racism rather than democracy (Boukari-Yabara).

Such statutes enshrine the volatility of the legal status of irregular migrants: being a provisional “benefit” –and not a regime of guarantees– it leads to the violation of the human rights of the migrant population: deportations can be ordered without recourse to due protection by a competent judge. Therefore, they also do not guarantee legal security for the supposed “asylum and refugee applicants”, since by not stipulating their rights or any recourse (neither administrative nor judicial), they do not allow them to assert them before any court; therefore, it is feasible that immediate cancellation orders are issued against all those applicants or beneficiaries of protection who are suspected (considered a threat to national or citizen security).

In relation to this, all Temporary Protection Statutes point to the obligation of registration and identification of irregular (or illegal) migrants before the competent authority (in the US, the Department of Homeland Security; in Colombia, the authorities of Migración Colombia). However, they apparently “discount” an

obvious fact: they do not consider the number of people who may choose not to register for fear of being criminalized and deported, or of not being detected in transit to other countries. Thus, they are afraid to avail themselves of the few rights they may enjoy, for fear of exposure to the immigration authorities, and for fear of deportation, especially if they have often been the victims of acts or discourse of discrimination based on race, class, ethnicity or gender. Since the Statute (or TPS) itself recognizes that the majority of migrants are in an irregular situation, the optional and discretionary nature of protection measures is a way of facilitating the conversion of exceptions into the rule.

In relation to legal migrants, their legal status may vary depending on whether they are permanent or temporary migrants. The legal status of illegal (or irregular) migrants is the most precarious, and their radical precariousness represents a set of characteristics continuously produced by the migration regime, the functioning of which conditions the lives of migrants (regular and irregular), as well as those of refugees. Depending on the capital-labor relationship, the tendency for irregular migrants to be pushed into “precarious work” (insecure and exploitative jobs) will grow.

One of the unstated objectives of Temporary Protection Statutes is to regulate freedom of movement, strictly controlling the movement of migrants, in order to curb their transit migration between countries to destinations freely chosen by them²³. This is a key legal-administrative element of such temporary “protection” regimes, the determination of their articulation –according to their political objectives– in the face of internal and external conjunctural events, one of which is the “Externalization of the border”. The territorial counterpart is the confinement of migrants in certain spaces from which they are prohibited or restricted from migrating, so that –given that the legal conditions of neo-apartheid imply a restriction of human mobility– entire countries (Mexico, Guatemala, Colombia) become buffer (or containment) zones for the entry of such migration towards the north or south of the continent, making them co-participants in the policies of exclusion and intra-continental migratory rejection (Boukari-Yabara).

On the other hand, such regimes are not based on the human rights and guarantees enshrined internationally for migrant populations (including asylum seekers and refugees) nor on the concomitant obligations for states under the relevant conventions; but rather on the discretionary powers of a host state to “grant” certain transitory benefits to a migrant population assumed to be a temporary “guest”²⁴.

Their instrumentation points to a complementarity between Temporary Protection Statutes and strategies based on “charitable assistance” rather than on guaranteeing rights, and on provisionality (transitory presence) rather than citizenship (or nationalization)²⁵. They are a kind of subsidiary or complementary protection measure, being restrictive –lacking the

scope provided by the established modalities of international protection— given that temporariness (or “provisionality”) implies providing lesser legal benefits than those held by an asylum seeker or refugee; denying the full guarantees of human rights, reserving their exercise only to those who have acquired citizenship (i.e. nationality).

What the (public and media) discourses conceal is that, legally speaking, Temporary Protected Status does not mean the granting of any legal immigration status, much less citizenship in the United States. It does not grant the political rights that are recognize for citizens of a country; they only receive provisional protection against deportation and permits to work in the US for a limited time (in Colombia, the EPTMV operates in the same way).

Final reflections

In the light of the above considerations, we would like to make the following reflections.

Through the emerging global regime of migration management, central states, as recipients of subordinate migration, retain control over the status of migrants, which becomes increasingly important in light of the converging impact of the two trends noted above: the tendency of most states to favor only temporary migration and only on restrictive terms (available only for “human capital”), with the consequent increase in repression and violence in border control; and inherently, the increase in ethnophagous pressure to migrate, implying a potential increase in illegal, clandestine, undocumented immigration.

The existence of Temporary Protected Statuses does not exempt the use of border “closure” regimes for “illegal” immigration. As an example of this, during the Bush administration the US-Mexico border was militarized through the mobilization of the National Guard, (which can be seen as an example of a concession from the neo-apartheid camp to the apartheid camp).

In times of the global pandemic of COVID-19, the way in which “migration policies” (and health policies) are instrumentalized as tools to control the population in its human mobility (intra-and extra-border) must be observed.

Cultural factors—in addition to political and economic ones—with “a cultural and political power of their own” in relation to the image of the migrant must be considered: racism, xenophobia involve the social construction of codes of “cultural incompatibility” between foreigners and nationals (Santos).

Within the politics of “neo-apartheid”, the creation of “migrant populations” should be seen not only as the creation of a “symbolic showcase” (Grosfoguel) to escape criticism of discrimination, but also as an articulation of each country’s national policies (e.g. Colombia) with US foreign policy, as part of hemispheric or global war strategies. Thus, Cuban anti-communist refugees in the 1960s were transformed into a Cold War showcase due to their peculiar class origins (or divisive political strategies), hegemonically represented as “model minorities”, and incorporated as “honorary whites” in Miami, into the privileges of “whiteness”, which affirming their Eurocentrism and colonialism constitute active elements of the neo-colonial context.

HUMAN MOBILITY AND COLONIALITY.

The phenomenon of migration within global capitalism

Considering the historical elements that cause the migratory phenomenon: North-South inequality, extractive neo-colonialism, induced uprooting, etc., it would be appropriate to think about the strategic defense of dignified living conditions, of roots, the self-determination of peoples and integrative and liberating multilateralism, as premises for defending the right not to migrate, in the service of decolonization (Florencia Mazzadi).



Author: Peter Haden. Photo: Ixtepec city trains (Oaxaca-Mexico).

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1 "Glick Schiller's reference to the transformative performance of "globe-spanning institutions of power" is indispensable in his global perspective on migration...The world of labor in capitalism has also been influenced by global networks of unequal power, and the institutions of financial and military power that participate in it, all actors that have engineered the control of its resources and products" (Pérez, Yulianela: 2015: 10, 24).

2 This global capital is "governed" by a transnational elite, which "diffused" in the form of a system, intervenes and shapes the process of centralized global accumulation, generating unequal development between regions, countries and classes.

3 Castles, in Perez: 2015:35.

4 Neo-colonialism refers to the continuity of forms of coloniality (domination and exploitation) from the North to the South in the international division of labor in a context where the overwhelming majority of peripheral countries are formally "independent" states.

5 The globalized generation of such migration policies and legislation implies a global migration management regime, which influences the formulation of national migration policies, and the administrative rules of control on a global scale (Mezzadra: 2012: 168).

6 It should be noted that antagonism reached the levels of confrontation of positions on "law" (legal epistemology) and "human rights" (critical positions). Thus, with regard to "law", in the CWM negotiation the brackets in the different versions of the draft reflected not only divergences between various legal systems, but also a discrepancy between more "radical" (or more "visionary") positions and more "legalistic" (or "conservative") positions. And in relation to "human rights", the negotiation expressed the confrontation between the collective (or "Peoples") rights politically championed by the peripheral countries, versus the liberal vision of individual (individualist) rights, "impartially" defended by the central ("Western") countries.

7 First Reading A / C.3 / 39 / WG.1 / WP.1 of 26 October 1964. In: Lonroth (1991) The International Convention on the Rights of All Migrant Workers and Members of Their Families in the Context of International Migration Policies: An Analysis of Ten Years of Negotiation: p. 714.

8 For some theorists (Grosfoguel/Maldonado) in the United States - and probably not only there - the problem of the 21st century is and will be the "problem" of migration intimately connected with racism: it expresses only the most visible contemporary form of a larger problem: the problem of "the color line" (W. E.B. Du Bois), referring to the "millions of mixed-race, copper, dark subjects who escape from poverty in an impoverished South and are seen as invading it. E.B. Du Bois), referring to the "millions of mixed-race, brown, dark subjects escaping poverty in an impoverished South who are seen as invading or infecting a North traditionally defined as "white". They are perceived as a whole, as the "black menace" (Grosfoguel/Maldonado: 2008: 119-120).

9 This threatens not only hegemonic structures (coloniality of power) but is an implicit symbolic affront to the hegemonic identities constructed by white elites (coloniality of being) in each country, which will be reproduced in other latitudes as "irregular" immigration increases.

10 This position is not unique to this sector of US governance: other countries (Australia, Germany, Japan) also support it. Thus, during the CWM negotiations, the Australian representative (Mr. Stewart) stated that: "Australia does not and will not provide the right to work to illegal immigrants, nor do we consider ourselves obliged to provide the services available to legitimate migrant workers. We also have serious reservations about Article 22 which, as a result, could impose unacceptable limits on our sovereign right to deport illegal immigrants" (United Nations: 1991: p. 71).

11 In the face of modern capitalist and neoliberal domination, thinking rises again: "which continues to think to this day that which gives food for thought, which is no longer Being or reason, sign or symbol, language or argumentation, but human life, which is in danger, but not the life of a few, but the life of all, so that now life is possible in a world in which we can all fit and eat with dignity, to be able to live a dignified life, liberated from all forms of domination" (Bautista Segales: 2014: p.52)

12 Perez: 2015: 25.

13 Mezzadra: 2012: 168.

14 This includes the use of forms of unconventional warfare, such as the implementation of unilateral coercive measures, trade-financial and military blockades, illegal confiscation of goods or financial assets, electricity blackouts, etc.

15 As a predecessor of such programmes is the "Bracero programme", which was used as: "a means of obtaining foreign labor through undocumented persons charged with facilitating border crossings, without any risk to employers and under conditions that facilitated ruthless exploitation...it had features in common with the Gastarbeiter model which was aimed at securing labour reserves in the Mediterranean region (Santos: 1998: 119).

16 In this regard, during the CWM negotiations, the representative of Japan (Mr. Sezaki) stated that Sezaki) stated that: "the principle of equality concedes to granting greater protection to migrant workers and members of their families than to nationals of the country concerned, or to other foreigners; secondly, those who might run counter to policies whose objective is the

maintenance of a healthy internal labor market; thirdly, those who might cause problems with regard to immigration policy, as to whether and to what extent to legalize the status of illegal migrant workers" (United Nations: 1991: p. 68) (emphasis added).

17 Salazar Parreñas, in: Mezzadra: 2012: 174

18 Immigration Act - Public Law No. 101-648, passed in November 1990.

19 The "philosophy" of TPS is based on "benefits" for the migrant population - which seeks to protect "their persecuted brothers and sisters" - based on "American generosity" (in turn, based on a planetary "moral responsibility"), but in no way on a real and concrete commitment to the human rights guarantees established in the conventions in force on the migrant population. It should be noted in this regard that the United States is at the top of the list of countries that have neither signed nor ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) or its Optional Protocol.

20 President Joe Biden's administration announced on 8 March 2021 that the Venezuelan population in the US will be able to benefit from Temporary Protected Status (TPS). The measure could benefit 380,000 Venezuelans who have been in the US since 8 March, for a renewable period of 18 months. Temporary Protected Status has had a great impact on international public opinion, and is often presented as a paradigm in terms of migrants' human rights, to be followed by all other countries in the hemisphere.

21 In the case of the Colombian government's "Temporary Protection Statute" for Venezuelan "refugees" (EPTMV), the same logic applies: in the very text of the Statute, it is stated - in blatant contradiction to all public discourse - that: "the inclusion of the Venezuelan migrant's information in the Register...does not grant him/her benefits or powers in the national territory, is not equivalent to the recognition of refugee status, nor does it imply the granting of asylum (...) The issuance of the PPT is not equivalent to the recognition of refugee status, nor does it imply the granting of asylum".

22 According to Grosfoguel and Maldonado-Torres, there are several categories of racialized migrants: a) "The immigrants": are those migrants who are racialized as "white" (other European migrants such as British, Dutch, German, French, Italian, Polish, Jewish, Irish or migrants coming from other regions of the world but of European origin such as Euro-Australians, Euro-Latins, Euro-Africans etc.) and who experience upward social mobility in the first, second or third generation. These are the migrants who once they adopt metropolitan manners, behaviors, accent and language, are assimilated, within the public domain, with the dominant metropolitan populations. They pass as "white" or are constructed as "honorary white"; b) "Racial colonial subjects of the empire": those subjects who are inside the empire as part of a long colonial history, such as African Americans, indigenous peoples, Chicanos, Puerto Ricans, Pacific Islanders, Filipinos, Chinese Americans, etc.; c) "Colonial migrants" are those migrants who come from peripheral neo-colonial localities in the capitalist world-economy. Many migrants from the formally independent countries of South America, Central America and the Caribbean become "colonial migrants" in the United States, even though they are not directly colonized by the metropolis to which they migrate and have class backgrounds that are higher than those "colonial migrants" who are part of the racialized colonial subjects of the empire. Many of these migrants arrived in the US as part of direct US military interventions, such as the Dominicans, or as part of indirect US military interventions in support of military dictators such as the Guatemalans and Salvadorans (Grosfoguel/ Maldonado: 2008: 122-123).

23 In the case of US TPS, when the person applies for or re-registers for TPS, he or she must inform USCIS of all absences from the United States. USCIS will determine whether the exception applies in each case. In the case of EPTMV, Venezuelans protected under the statute must request authorization from Migración Colombia, which issues an exit permit. But the protection will be cancelled if the exit exceeds 180 days, so the possibilities of leaving the country are at the mercy of the administrative authority, so their freedom of movement is controlled.

24 This is in line with what has been said above about "guest workers": large flows of South-North workers, recruited by governments or employers as a temporary labor force drawn to the core countries, composed primarily of unskilled workers (Castles, in Pérez: 2015:33).

25 It does not grant the political rights accorded to citizens of a country. Indeed, the Statute does not allow beneficiaries to vote in any electoral process in any nation.

